THE VICTORIA DISPUTE RESOLUTION CENTRE

AN EVALUATION OF THE MEDIATION PROJECT

PREPARED FOR

POLICY AND PROGRAM SERVICES

MINISTRY OF THE ATTORNEY GENERAL

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DECEMBER 1989

90-03073/

ACKNOWLEDGEMENTS

I wish to thank the following people for their assistance in the preparation of this document. Dinah Stanley, the former Program Director at the Dispute Resolution Centre, was instrumental in fostering the idea for this project, getting the resources and providing information about the program and its procedures. The evaluation was conducted under the supervision of Dr. James McDavid of the School of Public Administration, University of Victoria and Mr. Rene de Vos of the Policy and Program Services Branch, Ministry of the Attorney General. Heather McKellar and George Marinakis did extensive work in gathering and organizing the data, and Barry Forer spent many hours helping to set up the analysis format and procedures. Denise Paree assisted in the collection and interpretation of much of the information which appears in the literature review. Without the assistance of these people, it would not have been possible to conduct the evaluation or complete the analysis within the time or the scope that was achieved.

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1. EXECUTIVE SUMMARY

This report presents the findings of the Evaluation of the Mediation Project conducted at the Victoria Dispute Resolution Centre. The main purpose of the evaluation was to determine the degree to which the program had met its original objectives, and to identify the type of changes that would improve the process and outcome of the services.

The data used in the evaluation was collected from a document search of the 238 opened files at the Centre, structured telephone interviews with 235 people who participated in the services offered at the Centre, personal unstructured interviews with staff members and volunteers at the Centre, and personal structured interviews with representatives from the referral agencies. Data analysis included frequency distributions of process and outcome indicators, and cross tabulations of these variables with demographic characteristics of clients.

The results showed that the Dispute Resolution Centre handled a greater than expected number of inquiries (619) during its first 14 months of operation. A wide variety of types of disputes from a total of 17 different sources were successfully processed at the DRC. Nearly half of all the cases were successfully resolved, and 72% of the participants reported that the agreements which they had reached were still in force up to fourteen months later. The overwhelming majority of those who had used the services reported they were satisfied, would use the services again, and that they

would recommend them to others.

In comparison to the results reported in the literature review, the Dispute Resolution Centre is faster, more satisfying for clients and produces agreements that have a higher rate of compliance than the court process. It appears, that the services of the DRC resulted in a saving of the equivalent of 10 days of Small Claim Court time over the 14 month period, and that the cost of processing cases may be competitive with that of Small Claim Court. It was concluded that the Dispute Resolution Centre provided a needed and effective alternative method for the resolution of minor civil disputes, which resulted in an increased access to justice.

Among the recommendations which have been made are: (1) the Centre prepare for an increase in referrals over time; (2) the Centre, Ministry of the Attorney General and Small Claim Court study the impact of providing information about the results of this evaluation to potential plaintiffs; (3) the Centre prepare a package of its programs and procedures in a format that could be used to guide the development of similar services in other communities where they may be needed.

2. INTRODUCTION

2.1 HISTORICAL DEVELOPMENT

The Dispute Resolution Centre (DRC) has been providing mediation services to the citizens of Greater Victoria since April 1, 1988. These services are available to people who are involved in a dispute of a minor civil nature and wish to pursue a resolution outside of the traditional court system. Either party can initiate the request for mediation and the DRC, upon accepting the case, will contact the second party. If an agreement cannot be reached through telephone contact, a hearing will be scheduled in which the mediator assists the disputants in arriving at a mutually agreeable resolution.

The formation of the DRC had its roots in two separate organizations, The Victoria Association for Community Diversion/Mediation Services (Diversion) and the University of Victoria. The Victoria Association for Community Diversion/ Mediation Services had a mandate to, "...develop new programs in response to community justice concerns..." (Victoria, 1987 p.5). One of those concerns centred on the perceived shortage of mediation services which was available to assist citizens in the resolution of minor civil disputes. (Victoria, 1987 p.4) In response to this mandate it conducted a needs assessment survey (Victoria, 1987 p.19) which indicated that approximately forty cases per month, which might be amenable to mediation, could be referred from two existing agencies. The survey also concluded that

there were no other programs which used this mediation model or provided the type of service the Association envisioned.

During this same period, the Faculty of Law, and the School of Social Work at the University of Victoria wished to provide opportunities for students to: (a) learn theories of alternate forms of dispute resolution; and (b) gain training and experience in the delivery of those services. To those ends they were interested in co-operating in the efforts to establish a mediation project.

The co-operative efforts of several members of the Board of Directors and Staff of Diversion, and faculty members from U.Vic. resulted in funds being provided by: The B.C. Ministry of the Attorney General; The federal Department of Justice; The Law Foundation of B.C.; The B.C. Ministry of Labour and Consumer Services. The DRC was subsequently established as a two year pilot project. A Director and Volunteer Coordinator were hired in January 1988, and the first referrals were processed three months later in April.

The three objectives identified for the Centre at its inception were to: (1) determine the level of demand in the community for alternative dispute resolution services; (2) test the effectiveness of the community based mediation model; (3) determine the cost savings, as measured by the time saved from the Small Claim Court calendar, which might accrue from the reduced court time needed to resolve minor civil disputes.

One of the conditions of the original funding agreements was that an independent evaluation of the program be completed, prior to the expiration of the two year period.

2.2 LITERATURE REVIEW AND RESEARCH QUESTIONS

The problems and needs identified in section 2.1 have also been referred to in a number of other sources. Most recently, Mr. E. N. Hughes, in Access to Justice: The Report of the Justice Reform Committee, outlined the following problems inherent in traditional litigation;

> It is costly. It can be slow. It is public. And the adversarial process with its win-lose perspective is not well suited to the satisfactory resolution of certain kinds of disputes.
> (Hughes 1988, p.180)

In response to these types of problems, it is appropriate to examine the role of Alternate Dispute Resolution (ADR). Several types of programs have developed in the United States over the past 15 years, from which four common goals have been identified:

(1) to relieve court congestion as well as undue cost and delay;

(2) to enhance community involvement in the process;

(3) to facilitate access to justice;

(4) to provide more "effective" dispute resolution.

(Pirie, 1987 p.14)

Both Pirie (1987, p.15) and Hughes (1988, p.185) comment that these goals have been formulated in the American context, and care needs to be taken in their application to Canadian society.

The following four key indicators: resolution rates; speed and cost of resolution; participant satisfaction; and rates of compliance have been identified from the issues and goals presented by Hughes and Pirie. One of the problems however, in reviewing the ADR literature is that programs, and the settings in which they operate, vary a great deal, and key terms are poorly defined. Comparisons across programs have to be made with this in mind. The indicators which have been selected for analysis in this literature review were believed to be indicative of performance in a number of different settings. The definition for each indicator was accepted to be the one provided by the authors of the individual study.

2.2.1 Resolution Rates

There is very strong evidence to indicate that ADR programs typically achieve high rates of agreements in the cases which are mediated. Pearson (1982), in her review of 78 programs which operated in the United States between 1973 and 1982, concluded that agreements were reached in from 40% - 65% of the cases mediated. Other studies, particularly two in Canada (Windsor - Essex, 1984 and Perry 1987) report agreements in the range of 70% - 90%. The one study conducted in British Columbia (Morrison, 1984) concluded that the overall agreement rate was 60%.

These rates have occurred in programs which have very different forms of intervention, which would tend to lead to the conclusion that there is something inherent in the process of

mediation which contributes to its success. However, Vidmar (1985) hypothesized that rates of agreement are dependent on the level of liability which has been assumed by the parties to the dispute prior to mediation. His results tend to support that hypothesis. They indicate that 89% of the cases having full accepted liability were mediated, while 57% with no liability went to court. Rates of agreement then, appear to be influenced by the external factor of liability as well as those internal factors inherent in the process of mediation itself.

2.2.2 Speed and Cost of Resolution

Mediation/Conciliation is clearly seen to be able to resolve cases in significantly less time than that required for litigation. The data available for B.C. (Morrison,1984) applies only to conciliation but indicates the average length of time to resolution to be 11.5 days, as opposed to the 95.6 needed for litigation. Pearson (1982) reports that for combined mediation/ conciliation the average was 63 days as compared to the 255 - 330 days being needed to complete litigation in the United States.

An accurate comparison of costs is seen to be difficult to accomplish, due to the large number of variables influencing the outcome. The estimates range from a low of $62 per referral to a high of $589 per resolved hearing (Cook, 1980) for mediation / conciliation programs in the United States. Other studies (Garofalo, Connelly, 1980) indicate quite different results with a low of $24 per case to a high of $1007 per resolved hearing. The only available Canadian data indicates that for mediation/

conciliation the combined cost per referred case was $135, cost per hearing $351 and the cost per resolved case was $609. Comparable figures for small claims were $40.08 and $57.00 per case for 1982 and '83 respectively. (Windsor-Essex, 1984.)

2.2.3 Participant Satisfaction

Participant satisfaction, as measured by response to questionnaires, tends to be very high across all types of programs. The reported estimates range from 92% (Perry, 1987) to a low of 86% (DeStephen, 1989). The corollary question: 'Would you use the service again?' generates similar results. Interviews conducted by Benoit and Kopachevsky (1986) indicate that up to seven months after the dispute the parties still consider the process to be helpful in dealing with the after effects of the dispute. Vidmar (1985) concludes that for litigants, satisfaction is closely associated with whether or not the party perceived themselves as winning. There was no association between type of settlement in ADR and satisfaction, but there was a strong one between perception of fairness and satisfaction.

2.2.4 Rates of Compliance

Both Canadian and American studies report high rates of compliance with the agreements reached in mediation/conciliation. Windsor -Essex (1984) and Cook (1980) conclude that ADR agreements have an 88% rate of compliance. Pearson,(1982) on the other hand reported a 30% rate for adjudicated settlements.

2.2.5 Shortcomings of ADR

The significant reservations concerning the shortcomings of ADR have been chiefly identified by Pearson (1982) and Vidmar (1985). Pearson distinguishes between mandatory court based programs which tend to deal with a high volume of cases and as a result are cost efficient; and the voluntary programs which process fewer cases and have trouble maintaining trained volunteer mediators. Vidmar cautions that the strong performance indicators attributed to mediation may be due to such external factors as degree of admitted liability, rather than mediation.

2.3 SUMMARY OF HISTORICAL DEVELOPMENT AND LITERATURE REVIEW

This review of the literature indicates that in comparison to adjudication, mediation:

* generates more contracts than adjudication;
* produces higher levels of client satisfaction;
* results in agreements that are perceived to be more fair and equitable;
* achieves compliance rates with agreements which are higher over time;
* permits an airing of grievances and improved relationships between disputants;
* typically fails to attract large numbers of disputants, which affects ability to be cost effective, reduce the burden on the courts, and promote the development of a cohort of experienced dispute resolvers.

The major questions raised for the evaluation by this summary of the DRC's development history and review of the literature are:

(1) Will the demand, suggested in the Needs Survey, result in the number of referrals required for a viable program?

(2) Can the voluntary model develop and sustain the number of mediators needed to provide the expected volume of service?

(3) Is the model used at the DRC effective in terms of the criteria identified in the literature?

(4) What cost savings, as measured by the equivalent time which would have been needed to process cases in Small Claim Court, have accrued from the services of the D.R.C.?

3. EVALUATION METHODOLOGY

3.1 OVERVIEW

The DRC has recently extended its services to include the provision of arbitration for those cases not amenable to mediation. However, when the evaluation was being conducted only two hearings had been completed. This did not provide enough data to warrant their inclusion in the evaluation and, as a consequence, these results focus specifically on the mediation services at the Centre.

A program model which identifies the components of the DRC was developed in preparation for this evaluation, and is presented in Figure 1. The program was separated into the three distinct components of (a) volunteer training; (b) mediation services; and (c) community relations, referrals, public information.

Each component was then broken down into its constituent elements which represent the main activities taking place within that component. For example the main activities involved in volunteer training are recruiting and selecting, training volunteers and organizing student placements.

The elements of each component then contribute directly to its outputs which are the measurable results of that activity. In following the previous example, the outputs of volunteer training are the number of volunteers trained, hours of training provided and the number of student placements established.

Finally, the linking variables are a selection of indicators used to measure the level of outputs. They provide the bridge between the outputs of each component and the areas of primary impact which are the reduction in use of the courts and, the reduction in the number of unresolved disputes in the community. The remaining sections of Chapter three describe the tools of document searches, client surveys and personal interviews which were used to collect the data for the report.

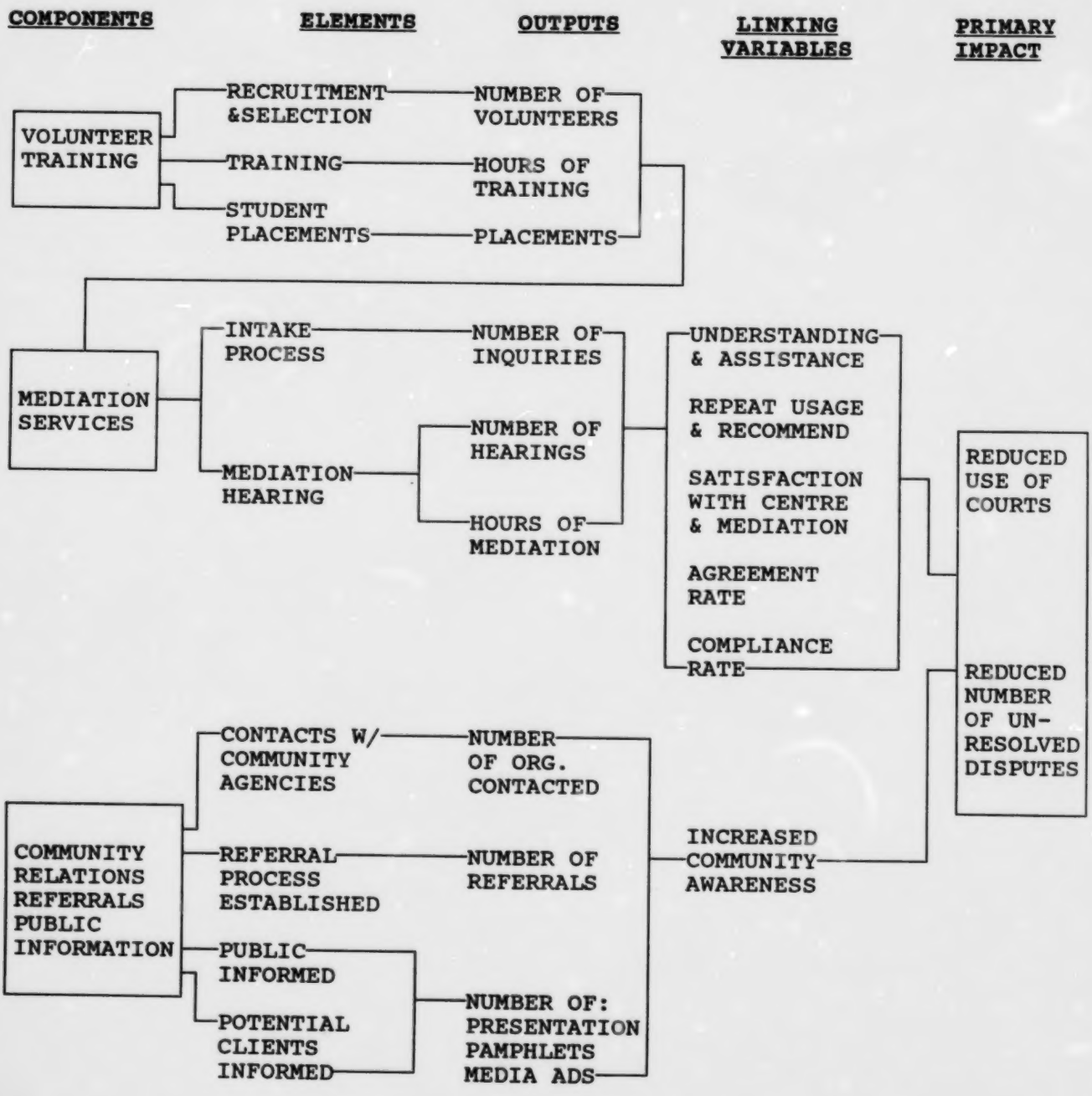
The results are reported in Chapter four and can be grouped into four large categories. The first describes the organization and operation of the Centre and the perceptions of the volunteers who worked there. The second category examines the client characteristics of age, sex, education and income. It then examines the characteristics of case type, referral source, type of dispute and probability of court action which describe the nature of the service provided.

The process indicators of the third category provide insight into how that service was provided by measuring such aspects as time to second party contact, time to case completion, satisfaction with the Centre, clarity and impartiality of mediators and satisfaction with mediation itself. Finally the fourth category describes the indicators of agreement rates, satisfaction with the agreement and compliance rates which were used to measure the outcomes of cases which went through the Centre.

Chapter four concludes with a case study describing an actual case and the process which the mediators use to assist people to resolve their disputes. Some details of the case have been altered to protect the confidentiality of the participants and the mediation sessions.

FIGURE 1

PROGRAM MODEL



3.2 DOCUMENT SEARCHES

A comprehensive review of the Centre's documentation was undertaken which included: program descriptions, statements of goals and objectives, records of public relations activities, information pamphlets, administrative forms, and case files.

A document search form was constructed to organize and record relevant information from case records. A copy is shown in Appendix A. All of the opened files,(n = 238), processed in the first 14 months of operation from April 1, 1988 up to and including May 30, 1989 were examined using the document search form.

3.3 CLIENT SURVEYS

Three separate telephone interview questionnaires, which have been included in Appendices B,C,and D,were developed for clients who were grouped into one of three case categories:

Conciliation - cases in which an agreement was reached through telephone contact with both parties, without a mediation hearing;

Mediation - cases in which a mediation hearing was held;

Rejection - cases in which no mediation hearing was held and no agreement was reached because: (1) the respondent refused; (2) the respondent was unable to be contacted; (3) the initiator withdrew; or (4) the case was inappropriate.

An attempt was made to survey 100% of the population of both Initiators and Respondents to mediation / conciliation. However, due to the researchers' inability to contact some of the clients, 73% of the parties to mediation, (n = 92), and 59% of the parties to conciliation (n = 72), were interviewed. Again, in the interests of time and the knowledge that most of the respondents to cases not proceeding to mediation or conciliation were unavailable, a random sample (n =71), which included only Initiators, were interviewed. This represented 33% of the population in this category. In total, 235 telephone interviews were conducted which represented 49.3% of all the clients named in the opened files.

Data analysis included frequency distributions of process and outcome indicators, and cross tabulations of these variables with demographic characteristics of clients.

3.4 INTERVIEWS

Unstructured interviews were conducted with staff members and volunteers at the DRC, while structured interviews were held with representatives from the referral agencies. The Structured interview format is included in Appendix E.

4. RESULTS

4.1 ORGANIZATION

4.1.1 Facilities

The offices of the DRC are centrally located in the downtown area of Victoria and are easily accessible by bus and car. A large well lit room capable of accommodating 15 - 20 people serves as mediation room and meeting centre. The result is a modestly attractive space that is conducive to mediation. The facilities available to the volunteer administrators are spacious but suffer from a lack of equipment for processing correspondence and performing record keeping functions.

The Dispute Resolution Centre is operated under the auspices of the Victoria Association For Community Diversion /Mediation Services. The Board of Directors of the Association has overall responsibility for both the services provided by the Diversion programs, and those of the Dispute Resolution Centre. An Advisory Committee, consisting of Association Board members and the Executive Director of Diversion, provide guidance to the DRC's Program Director in areas such as logistical support, policy development, and the formulation of program goals and objectives. The DRC Program Director reports to the Executive Director of Diversion Services, who in turn reports directly to the Association's Board of Directors.

4.1.2 Personnel

The Program Director is responsible for the development and management of program services and the provision of mediator training. The Program Director at the time the evaluation was being conducted possessed considerable skill and experience in mediation practice and training. As a result, she was able to institute the training program which is evaluated in a later section of this report.

The position of Volunteer Coordinator was created to assist in the day to day operations. The duties of that position were to include the recruitment, selection, training and support of the office volunteers. These people would then perform the bulk of the regular administrative and clerical functions at the Centre.

However, considerable difficulty was experienced in recruiting and maintaining a consistent corps of volunteers. In response to the difficulties, the Advisory Committee, with the support of the Program Director, rewrote the job description. The new position was designated Case Coordinator to be responsible for overseeing the intake and screening of referrals, as well as filling in for the Program Director in her absence. That position became active in January of 1989, with the hiring of a new incumbent. All of the mediation hearings and the majority of the routine clerical functions continue to be carried out by volunteers.

4.2 PERCEPTIONS OF VOLUNTEERS

The data included in this section are compiled from: personal interviews with volunteer office workers; course evaluations completed by mediators; and the results of an independent study, (Maclean-Simpson and Wankel, 1989). This latter study examined the volunteers' perceptions of the extent to which the training programs prepared them for case coordination and mediation. In total the data includes responses from seven case coordinators, nine of the ten mediator trainees, eight of the eleven core mediators, and six of the eleven office volunteers.

4.2.1 Office Volunteers

All six of those interviewed learned of the DRC at the Volunteer Bureau and followed up on the contact from there. Their reasons for volunteering range from wanting to meet people and having a desire to do something helpful for others, to learning word processing and computer skills. Five of the six spend four hours per week and one puts in three per week at the Centre.

Five of the six people indicated that they had received a thorough orientation to the DRC and that they found the staff there to be very helpful and supportive. One person found the orientation to be inadequate and that answers to questions and explanations of procedure were incomplete.

The feature which volunteers most often mentioned as a disadvantage to working at the DRC was a lack of organization in assigning duties. On the other hand, among the aspects which

volunteers liked most about the DRC was a feeling of being valued, and the opportunity to contribute to a worthwhile goal. They also made mention of the benefits of working in a friendly, relaxed atmosphere and the satisfaction of successfully meeting a challenge.

4.2.2 Case Coordinators

Although the DRC has restructured the intake procedure and these duties are now being performed by a paid employee, the results of the inquiry into training illustrate the type of difficulties that were encountered in developing this position.

Volunteer case coordinators were given a total of 16 hours of training delivered in four separate four hour sessions. The content included communication skills, problem solving and knowledge of community resources. These were delivered using a combination of lectures, role plays, and supervision.

The results of the survey (Maclean-Simpson and Wankel,1989) indicate that the candidates were satisfied with the training they received and that it adequately prepared them for the task of coordinating intakes. However, they indicated some considerable frustration in not being able to readily apply the skills they had learned. The results are best summarized by the authors of the study.

> Several of the respondents reported feeling dissatisfied with their role at the DRC and felt 'under utilized, not needed by the centre, and did not find the tasks designated satisfying'. (Maclean-Simpson and Wankel, 1989 p.40).

4.2.3 Mediators

Information in this section has been gathered from two groups: (a) the 11 " core mediators " who had received their training prior to volunteering at the Centre, and (b) the group of 10 mediator trainees who received their instruction at the Centre. A third group (c) of 20 trainees was still completing its instruction program at the time this evaluation was being conducted. No data was collected from the people in group (c).

The selection criteria for group (a), the core mediators, was based on the relevant training and experience which they already possessed. The selection criteria for group (b), the mediator trainees, was largely intuitive and unspecified. It appears to have been focused mainly on the applicants appreciation of the community conflict resolution model and the level of commitment they expressed towards the Centre and its work.

A self evaluation format was used to determine which skills the mediators tended to rely on. A total of 15 skills that mediators needed to possess, and that were intended to be imparted in the training, were identified. A comparison of the results obtained from the core mediators who were performing satisfactorily was then made with results obtained from the group of mediator trainees.

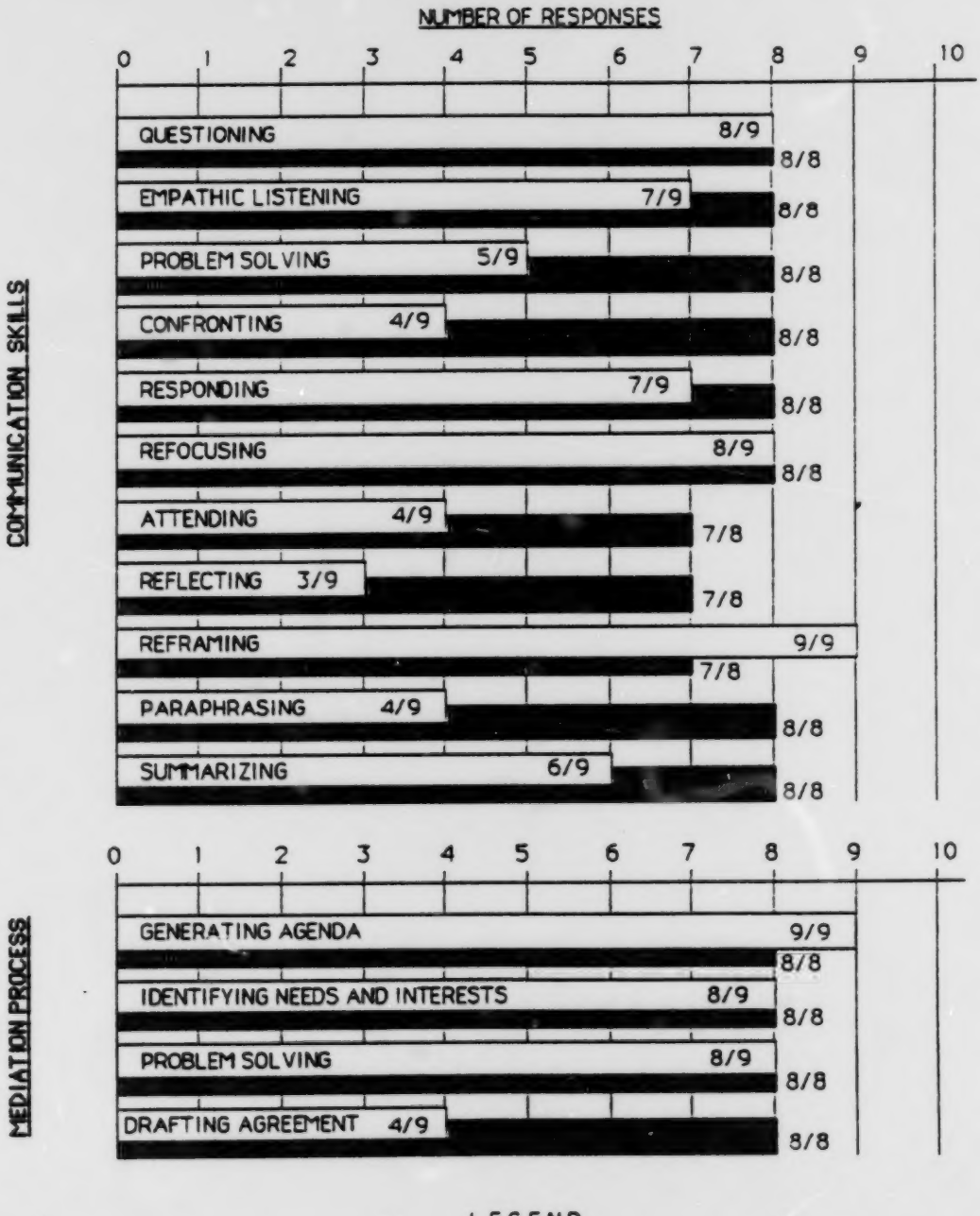
When asked if they used the identified skills in their mediation, all of the core mediators replied that they used 13 of the skills and 7 of 8 reported using the remaining two. The trainees, when asked which skills they had learned, reported mixed

results. Two of the 15 skills, namely, "reframing" and "generating agenda" were identified as having been learned by all respondents. "Confronting, attending, paraphrasing, and drafting agreements" were identified by four respondents, while "reflecting" was reported by three of the nine. A graphic comparison of the perceptions of the core and mediator trainees is presented in Table 1 (Maclean Simpson and Wankel, p.29).

The majority of the trainees reported that the content of the sessions met their needs and fulfilled their expectations. They differed however, in their perceptions of whether or not they were adequately equipped to conduct mediation.

TABLE 1

A Comparison Between The Mediation Trainees Aquisition Of Skills And The Core Mediators Use Of Skills



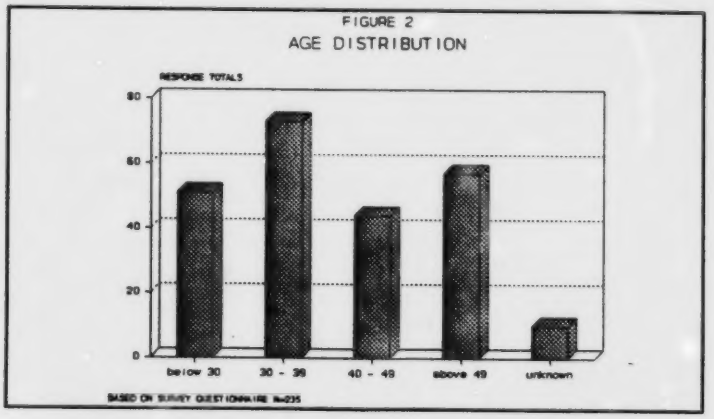
4.3 CLIENT CHARACTERISTICS

The data which are presented here were collected from the 238 case files and in 235 personal telephone interviews with the clients. This is the first attempt to describe the population served by this type of service in British Columbia. It is intended to provide a base line against which similar programs which may be developed can be compared. As more data become available it will also be possible to draw some comparisons between the characteristics of people who make use of the service and those in the general population. Since sufficient data are not available, no attempt will be made in this report to draw such comparisons.

4.3.1 Age

Figure 2 shows the largest group of clients to be the age category of 30 - 39 which made up 32% of the sample. This was followed by those above age 49 representing 25% of the sample, and clients less than age 30 making up 23%. Those clients between the ages of 40 - 49 were least represented at 20%.

FIGURE 2
AGE DISTRIBUTION



The results presented in Table 2 show each age group having similar percentages of Initiators and Respondents.

TABLE 2

AGE OF CLIENT BY PARTY

	AGE								
	<30		31-39		40-49		>49		
	N	%	N	%	N	%	N	%	TOTALS
INIT.	36	70.6	51	69.9	31	70.5	43	75.4	161 71.6
RESP.	15	29.4	22	30.1	13	29.5	14	24.6	64 28.4
TOTALS	51	100	73	100	44	100	57	100	225 100

INIT. = INITIATOR RESP. = RESPONDENT

4.3.2 Sex

As reflected in the column totals of Table 3, there was an equal distribution of males and females,47% and 53% respectively. When analyzed according to role, females are somewhat more likely to be Respondents than are males, 34.7% versus 21.6%.

TABLE 3

SEX BY PARTY

	FEMALE N	FEMALE %	MALE N	MALE %	TOTAL N	TOTAL %
INITIATOR	81	65.3	87	78.4	168	71.5
RESPONDENT	43	34.7	24	21.6	67	28.5
TOTAL	124	100	111	100	235	100

When broken down by file type, (Table 4), females are more likely to be involved in mediation or conciliation, whereas males are more likely to be involved in files that end in rejection. It is important to note at this point that the rejection category contains only Initiators, as Respondents were unavailable to be surveyed.

TABLE 4

SEX BY FILE TYPE

	FEMALE		MALE		TOTAL	
	N	%	N	%	N	%
MEDIATION	52	41.9	40	36.0	92	39.1
CONCILIATION	41	33.1	31	27.9	72	30.6
REJECTION	31	25.0	40	36.0	71	30.2
TOTAL	124	100	111	100	235	100

4.3.3 Education

Figure 3 shows that slightly over half of the clients who responded had completed some or all of a high school diploma, while 30% had some or all of a university degree. Of those who initiated cases, high school graduates were most often represented (29%) while the group appearing least often, (13%), were those having some high school. The high school and university categories were equally represented among respondents, while the category of college educated respondents appeared least frequently.

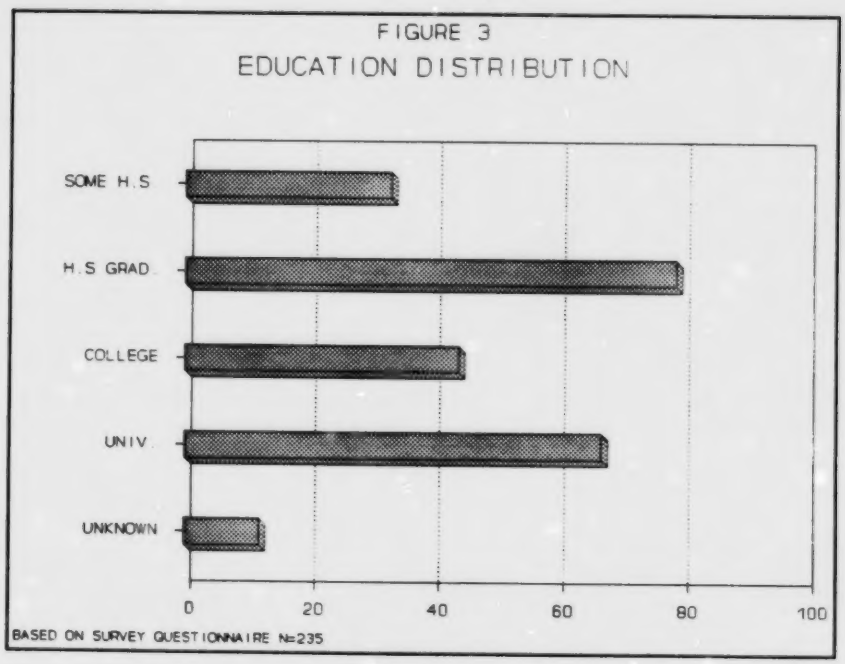
The categories listed in Figure 3 are as follows:

Some H.S. = client has completed some high school.

H.S. = client has completed high school.

College = client has completed college.

Univ. = client has completed university.



When cross classified by file type, (Table 5), high school graduates are likely to be involved in conciliation cases, while the university category is most likely to be involved in mediation. College educated respondents were most likely to be involved in rejections.

TABLE 5

EDUCATION BY FILETYPE

	S.H.S. N	%	H.S. N	%	COL. N	%	UNIV. N	%	TOTAL N	%
MEDIATION	15	45.5	28	35.4	16	36.4	33	49.3	92	41.3
CONCILIATION	10	30.3	28	35.4	11	25.0	17	25.4	66	29.6
REJECTION	8	24.2	23	29.1	17	38.6	17	25.4	65	29.1
TOTAL	33	100	79	100	44	100	67	100	223	100

S.H.S. = some high school; H.S. = high school; COL. = college; UNIV. = university.

4.3.4 Income

The majority of those clients served by the DRC (56%) have an annual family income of $25,000 or less. The two categories of $25,000-$45,000 and less than $16,000 per year appear with almost equal frequency (31.6% and 30.6% respectively). The above $45,000 category was least frequent, dropping to 13% of the sample (Figure 4).

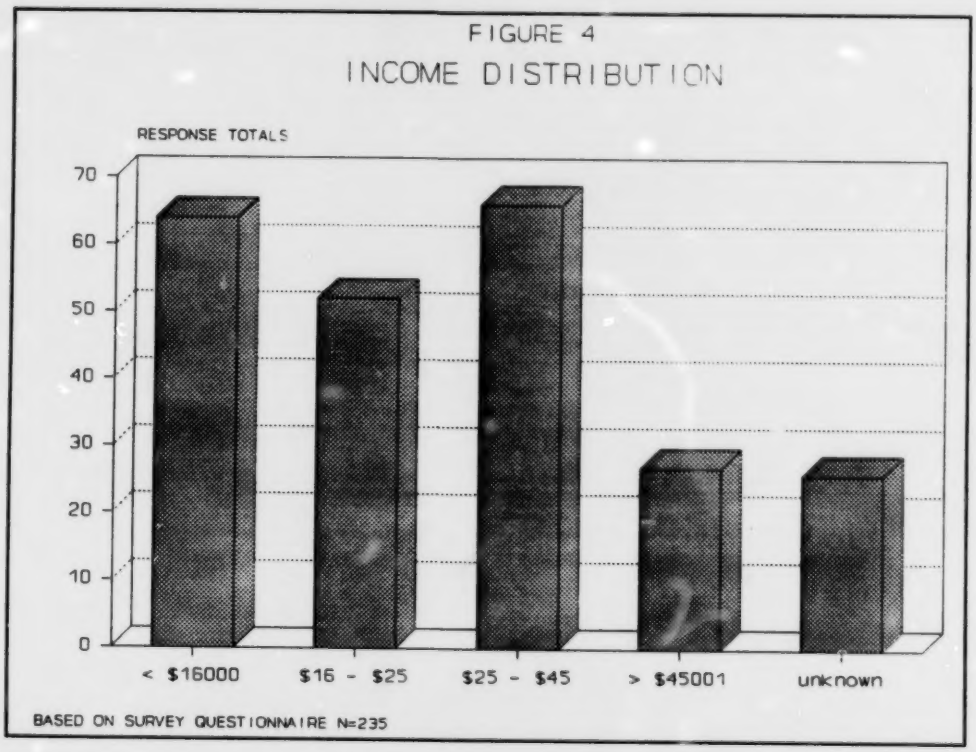


Table 6 shows that Initiators are most likely to have incomes that are $25,000 per year or less. Respondents on the other hand are most likely to have incomes that are above $25,000.

TABLE 6

INCOME BY PARTY

	1		2		3		4		TOTAL	
	N	%	N	%	N	%	N	%	N	%
INITIATOR	49	76.6	43	82.7	41	62.1	19	70.4	152	72.7
RESPONDENT	15	23.4	9	17.3	25	37.9	8	29.6	57	27.3
TOTAL	64	100	52	100	66	100	27	100	209	100

1= <$16000 2= $16001-$25000 3= $25001-$45000 4=>$45000

When organized according to file type, income related patterns are less clear cut. As Table 7 shows, those participants with incomes of from $25,001-$45,000 are most likely to be involved in mediation, while the chances of those in each of the other three categories being involved are almost identical. With conciliation, the $25,001-$45,000 category is again most often represented, while the less than $16,000 is least, and the remaining two categories occur with equal likelihood. Of those people who were involved in cases that were rejected, the greatest number came from the less than $16,000 category while those in the $25001-$45000 category were least often represented.

TABLE 7

INCOME BY FILETYPE

	1		2		3		4		TOTAL	
	N	%	N	%	N	%	N	%	N	%
MEDIATION	24	37.5	19	36.5	31	47.0	10	37.0	84	40.2
CONCILIATION	14	21.9	16	30.8	22	33.3	8	29.6	60	28.7
REJECTION	26	40.6	17	32.7	13	19.7	9	33.3	65	31.1
TOTALS	64	100	52	100	66	100	27	100	209	100

1= <$16000 2= $16001-$25000 3= $25001-$45000 4= >$45000

The profile which emerges then is that Initiators are likely to be high school graduates; between the ages of 30-39 years; with a combined family income of less than $25,000 per year. Respondents are more likely to be female; high school graduates; aged 30-39 years; but with a combined family income of between $25,001-$45,000 per year.

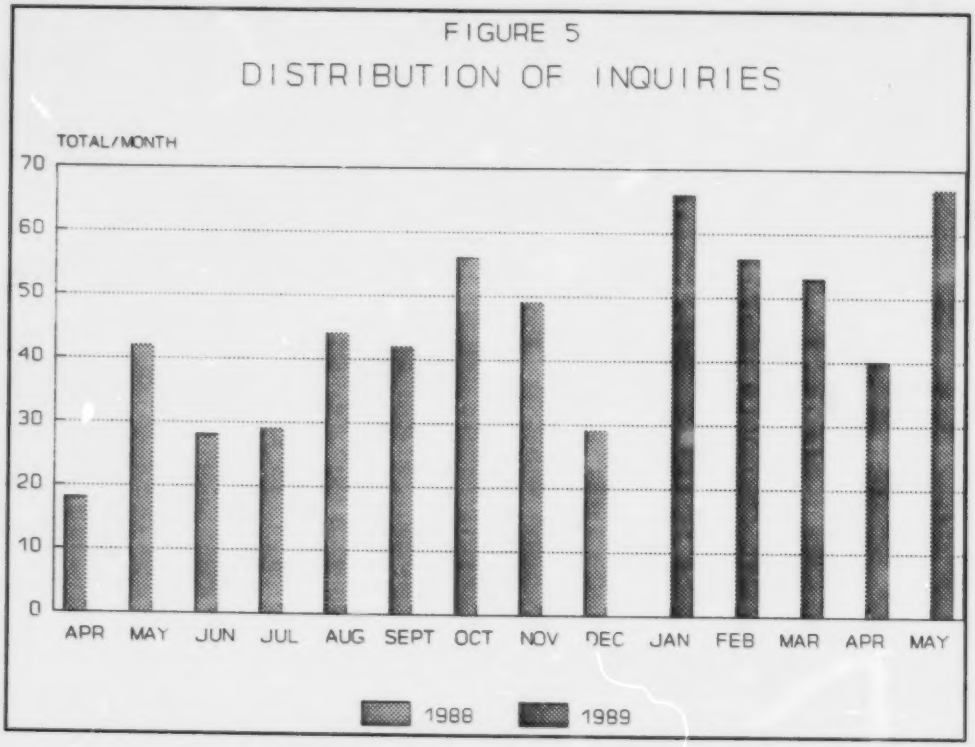
4.4 SERVICE CHARACTERISTICS

This section will describe the nature of the cases which were processed by the DRC. The data were gathered from document searches of the 238 case files and 235 telephone interviews and include: type of case; referral source; type of dispute; relationship of parties; time to case completion; amount ($) of agreement; and probability of case going to court.

The following is the sequence of events which could occur when an inquiry was made to the DRC. The Case Coordinator would record the information provided by the Initiator on an intake form. If the Initiator needed either information or a referral to the appropriate agency it was provided, and a file would not be opened. If the case appeared to be appropriate, a file was opened and an effort was made to contact the Respondent. If the Respondent agreed to participate in the process, the Case Coordinator attempted to conciliate a resolution through telephone contact. If conciliation was successful the file was closed, if not, a mediator was assigned to the case and a mediation hearing was scheduled. In the event that the Respondent was not able to be contacted, or when contacted refused to participate, the file would also be closed. At the appointed date, provided that the Initiator had not withdrawn the case, both parties would meet with the mediator and attempt to resolve the dispute.

4.4.1 Type of Case

In the 14 months from April 1, 1988 to May 30, 1989 the DRC received a total of 619 inquiries as reported in Figure 5.



The mean number of inquiries received between April and December 1988 was 37. That rate increased in the period January to May of 1989 to 56 inquiries per month.

Table 8 shows that of those inquiries, which did not result in a file being opened, 15% needed information about the Centre; 18% resulted in a referral to the appropriate agency; and 67% were given specific directions which enabled the caller to seek resolution without further assistance.

TABLE 8

DISPOSITION OF NON FILE INQUIRIES

TYPE OF ACTION	N	% OF CATEGORY
Provide information about DRC	57	15%
Make specific referral to an appropriate agency	69	18%
Provide specific directions enabling caller to seek resolution without further assistance	255	67%
Total	381	100%

People making inquiries generally wanted to know such things as how much it cost, what they would need to do, who would contact the other party and whether or not the information would be kept confidential.

If upon learning the nature of the dispute,the intake worker determined that it fell within the mandate of another organization, a referral would be made there. For example:

* criminal matters would likely be referred to the Law Centre;
* landlord/tenant issues involving a lease agreement would be referred to the Residential Tenancy Branch;
* disputes involving a merchant who was a member of the Better Business Bureau would be forwarded to that organization.

In situations where it appeared that the person making the inquiry could probably resolve it on their own, they would be given the assistance needed to do so. That usually involved clarifying the exact nature of the dispute, specifying what remedy was being sought and then determining who it should be addressed to and, how best that might be done.

Of the total 619 inquiries which were received, files were opened on 238 cases. The breakdown of case type indicates that 67 or 28% were conciliated, 55 or 23% went to mediation, and the balance of 116 cases, or 49%, were rejected. Table 9 displays the breakdown of cases that were classified as rejected. this could occur if the respondent refused to participate in the process (63% of the total number of rejections); the initiator withdrew the case (17%); the Case Coordinator was unable to make contact with the respondent (12%); or finally, if the case was considered to be inappropriate (8%).

TABLE 9

OUTCOME OF REJECTION FILES

OUTCOME	N	% OF CATEGORY
Respondent refused	73	62.9%
Initiator withdrew case	20	17.2%
Unable to contact respondent	14	12.1%
Case was inappropriate	9	7.9%
Total	116	100%

The first three categories are self explanatory, however, a case could be declared inappropriate for one of the following reasons:

* there was a significant legal issue at stake;
* the dispute was outside the coverage area of the DRC;
* one of the parties did not have the mental or physical capacity to fully participate in the process.

4.4.2 Referral Source

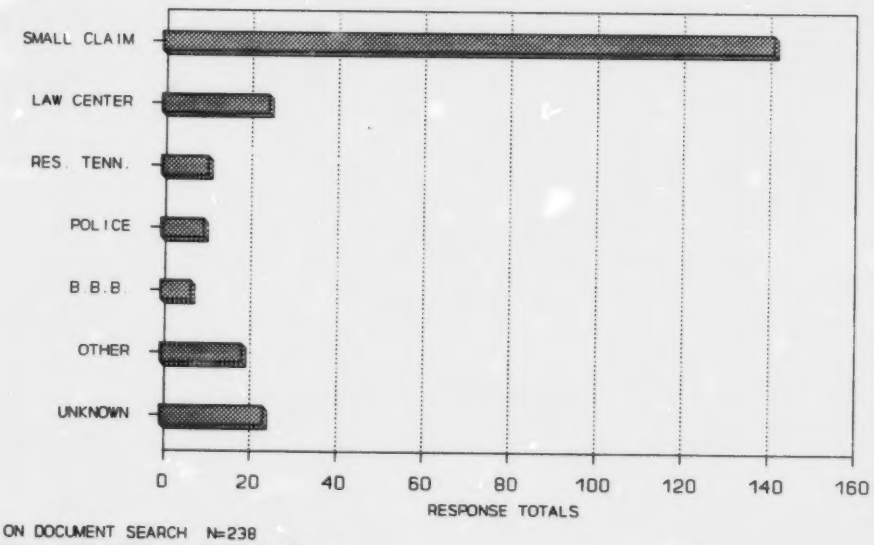
The majority of the referrals originated with Small Claim Court which accounted for 142 or 60% of the total (Figure 6). The next largest sources were the Law Centre and those of unnamed

origin which both generated 25 or 10% of the referrals. The balance of 47 or 20% of the referrals were spread over a variety of 17 different sources some of which included:

* Royal Canadian Mounted Police
* Police forces of Victoria and Saanich.
* Residential Tenancy Branch.
* Better Business Bureau.
* Newspaper, Radio and Television reports.
* Constituency Offices of local M.L.A.s

FIGURE 6

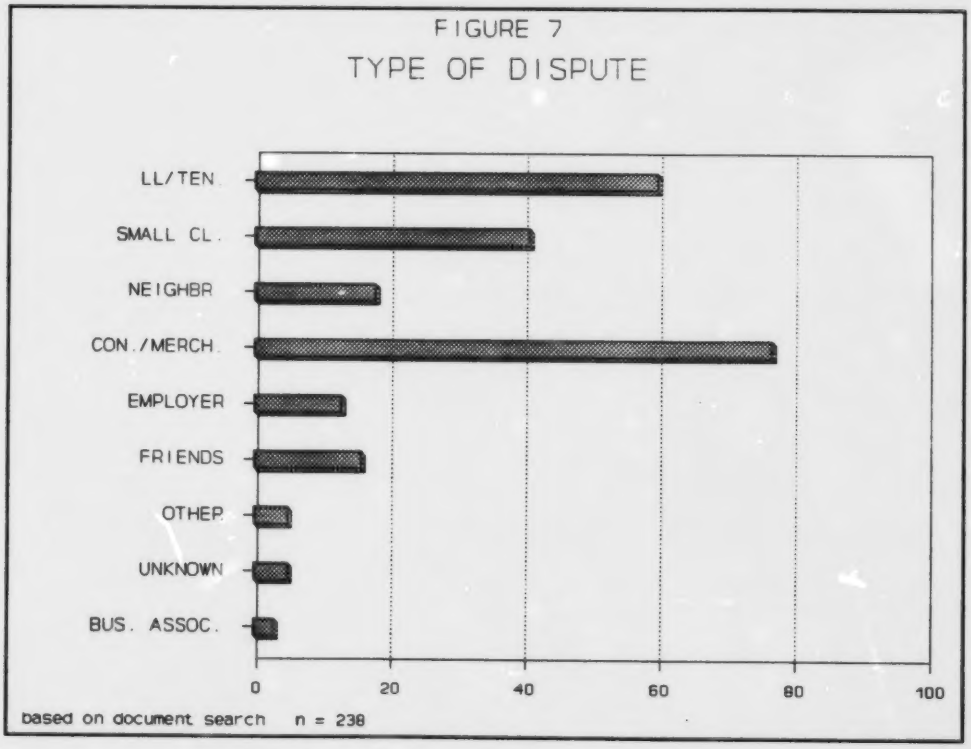
REFERRAL SOURCE



BASED ON DOCUMENT SEARCH N=238
Res. Tenn. = Residential Tennancy Branch
B.B.B. = Better Business Bureau

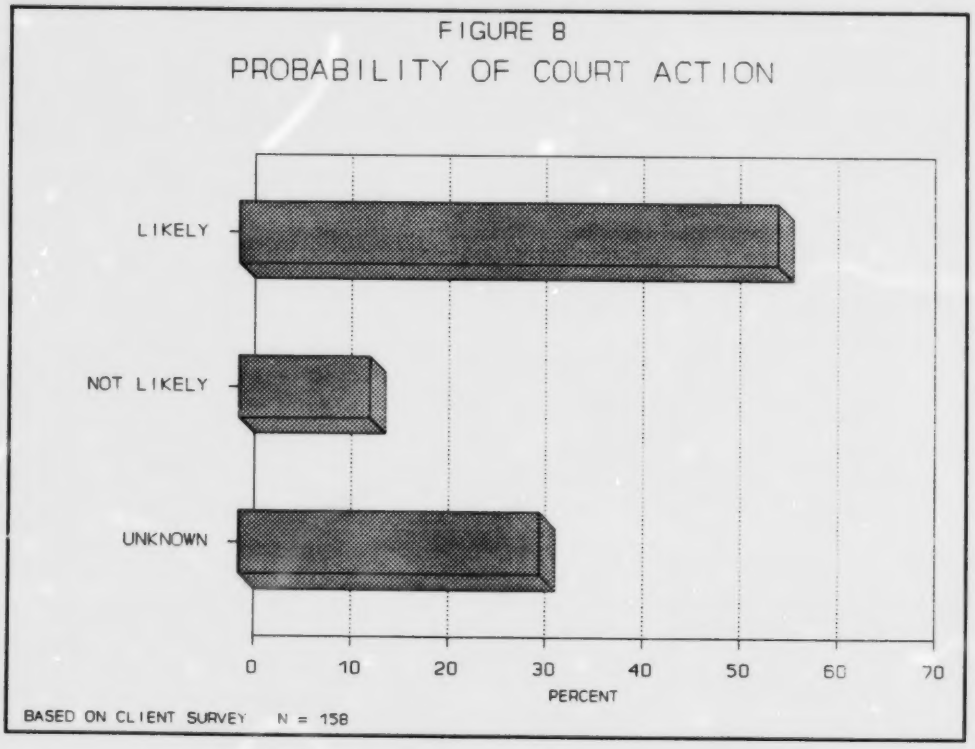
4.4.3 Type of Dispute

Figure 7 shows that 77 or 32% of the cases, were disputes between merchant and consumer. These cases generally involved an issue with defective goods or services, or a dispute over the payment for such. The next most frequently identified classification was that of landlord/tenant which accounted for 25% (n = 60) of the disputes. Here the dispute generally involved: the behaviour of either party on the premises, the condition of the premises, or the disposition of damage deposits. The remaining 7 categories accounted for the balance of 101 cases which made up 43% of the sample.



4.4.4 Probability of Court Action

Figure 8 reveals that, of those surveyed, 56% (n = 127) indicated that they felt it was likely that their case would have gone to Court, if the services of the Centre had not been available.



There was little difference in this factor between mediated or conciliated cases as reported in Table 10.

TABLE 10

PROBABILITY OF GOING TO COURT BY FILE TYPE

	LIKELY N	LIKELY %	NOT LIKELY N	NOT LIKELY %	TOTALS N	TOTALS %
MEDIATION	73	57.5	17	54.8	90	57.0
CONCILIATION	54	42.5	14	45.2	68	43.0
TOTALS	127	100	31	100	158	100

4.5 PROCESS INDICATORS: MEDIATION/CONCILIATION

The process indicators presented in this section are those that are common to both processes of mediation and conciliation. The data for these indicators were gathered from the document search forms and the client survey and include: helpfulness and understanding of the intake worker, overall satisfaction with the Centre, repeat usage and willingness to refer.

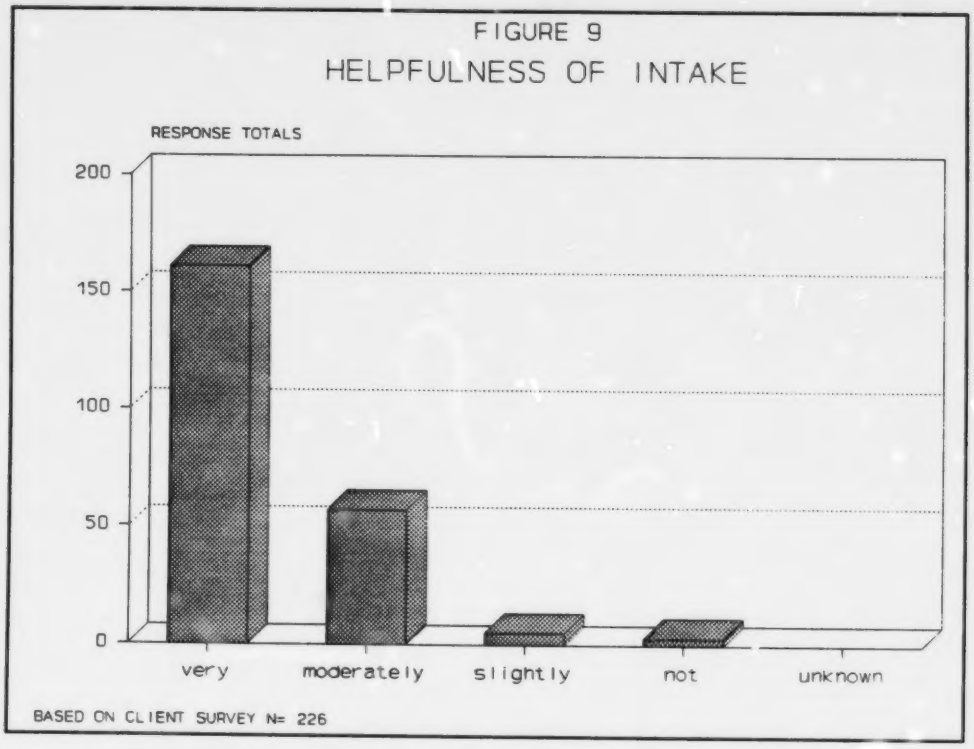
4.5.1 Assistance and Understanding From Intake Worker

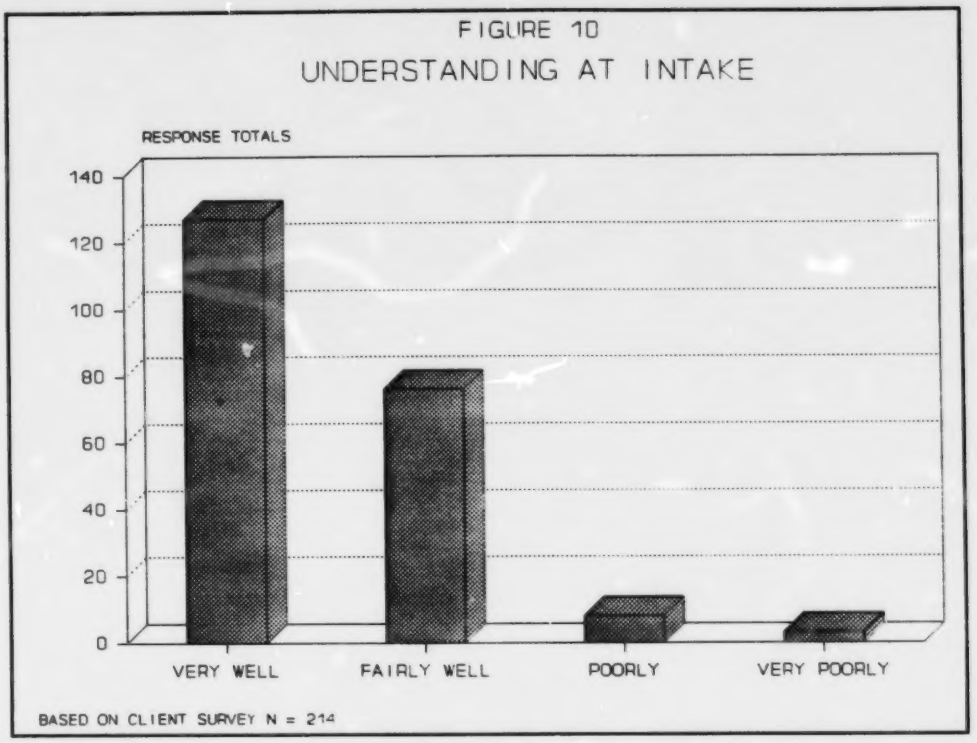
Figures 9 and 10 indicate that the overwhelming majority of clients were satisfied with the service they received at the time of their initial contact. Overall, Figure 9 shows 71% of those surveyed indicated that the service provided by the intake worker

was very helpful, while an additional 25% found it moderately helpful. When asked how well the intake worker understood the nature of their problem, (Figure 10) 95% responded by saying they felt it was understood either very well or fairly well.

FIGURE 9

HELPFULNESS OF INTAKE





4.5.2 Time to Second Party Contact

Once the initiator had filed the dispute with the Centre, Table 11 shows that it took an average of approximately 8 days overall to contact the respondent. With conciliation cases in particular, the mean length of time to second party contact was 3 days. Mediation cases required twice that time to make contact resulting in a mean of 6 days. The time was doubled again in rejection cases which required an average of 12 days to contact those respondents which could be reached.

TABLE 11

TIME TO CONTACT 2nd PARTY

	N	MEAN # DAYS	MIN. # DAYS	MAX. # DAYS
MEDIATION	54	6.1	0	46
CONCILIATION	58	2.1	0	21
REJECTION	99	12	0	97
TOTAL	211	6.7		

4.5.3 Number of Contacts Before Resolution

Table 12 displays the number of contacts that ensued before either an agreement was reached or the case was classified as rejected. The mean number required was 13, with a range of 1 to 37. When these data are viewed according to file type they show that mediation cases required an average of 15 contacts, while conciliation and rejection cases required an average of 8 and 7 contacts respectively. The majority of contacts were made by telephone. In situations where that was not possible, letters were sent to the respondent informing them of the nature of the complaint and asking for their participation in mediation.

TABLE 12

NUMBER OF CONTACTS BY FILE TYPE

	N	MEAN	MIN.	MAX.
MEDIATION	53	14.5	1	37
CONCILIATION	8	7.9	1	27
REJECTION	8	7.1	3	16
TOTAL	69	12.9		

4.5.4 Total Time to Case Completion

Over 60% of the cases were completed in less than 20 days from the time that the Initiator made the inquiry at the DRC. The time needed overall to complete a case and close the file had a mean value of 19 days as reported in Figure 11.

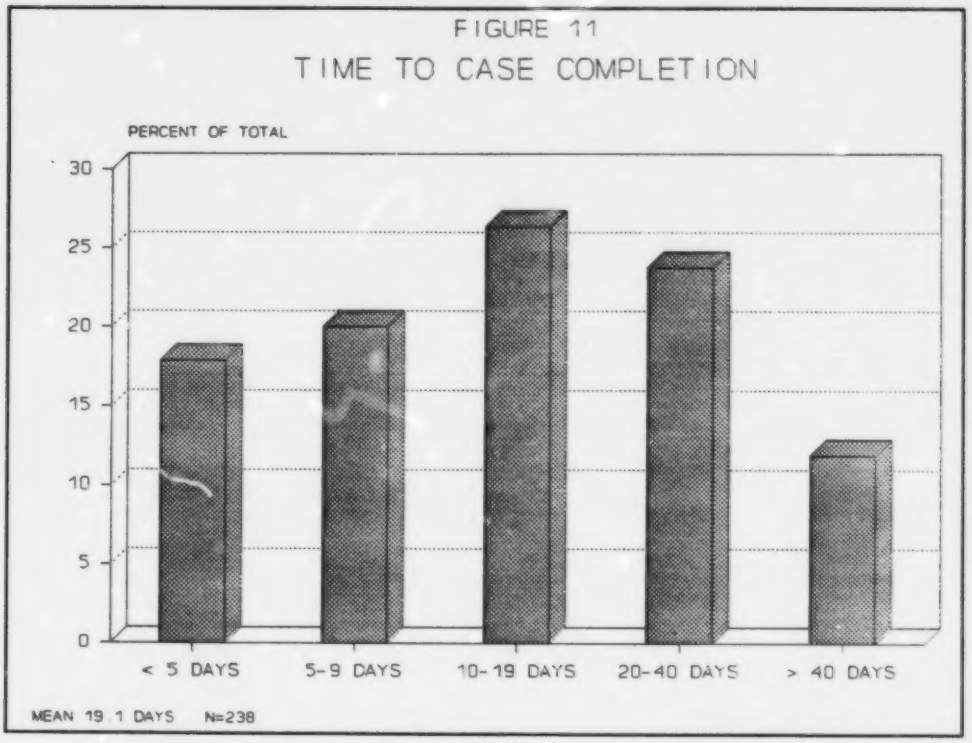


Table 13 indicates that mediation cases took an average of 25 days which accounts for the time needed to schedule the attendance of from four to eight people. The mean value of 20 days needed to complete a rejection file was influenced by the difficulty experienced in contacting the respondent. Conciliation cases which were closed in an average of 12 days needed no scheduled meetings and involved issues which could be resolved over the telephone.

TABLE 13

TIME TO CASE COMPLETION BY FILE TYPE

	N	MEAN # DAYS	MIN. # DAYS	MAX. # DAYS
MEDIATION	55	25.1	1	77
CONCILIATION	67	12.4	1	64
REJECTION	113	20.2	1	87
TOTAL	235	19.1		

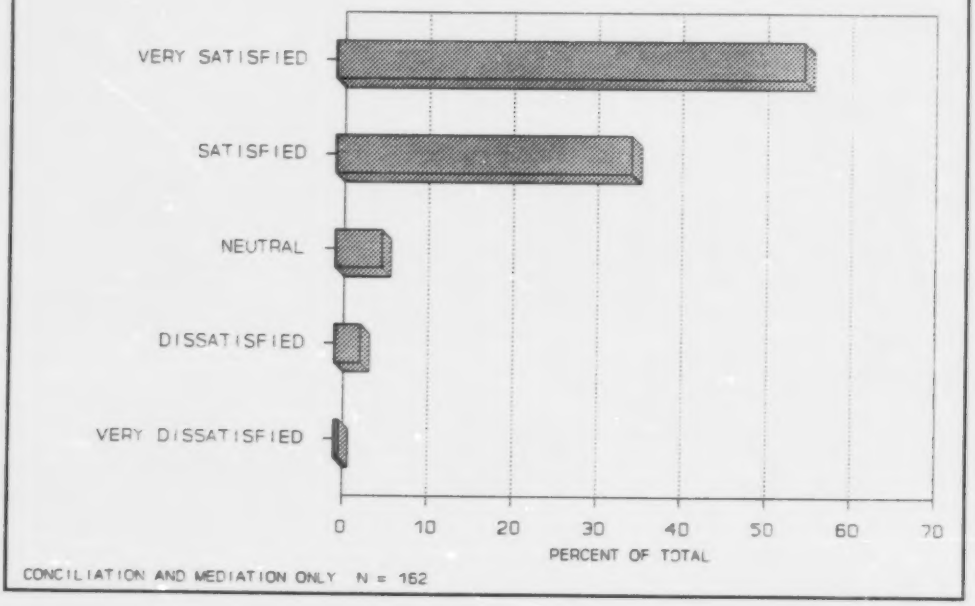
The results of this section indicate that the Victoria DRC's rate of resolution in conciliation cases was very close to the previous data available for B.C. of 11.5 days. (Morrison, 1984) It was, however, significantly better than the average of 63 days reported by Pearson (1982) for combined mediation / conciliation cases in the United States.

4.5.5 Satisfaction With the Centre

This factor provides a preliminary indication of satisfaction with the process. More specific measures of satisfaction which relate to outcomes will be presented in later sections. As reported in Figure 12, 91% of those surveyed said that they were either satisfied or very satisfied with the services provided by the Centre.

FIGURE 12

CLIENT SATISFACTION WITH CENTRE



These results were equally distributed between both mediation and conciliation cases as shown in Table 14.

TABLE 14

SATISFACTION WITH CENTRE BY FILE TYPE

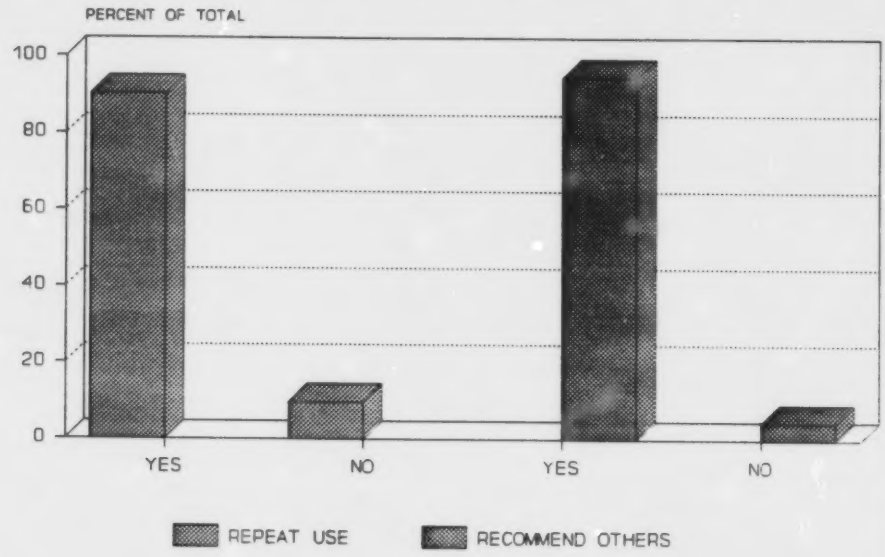
	MED. N	MED. %	CON. N	CON. %	TOTALS N	TOTALS %
VERY SATISFIED	51	55.5	39	55.7	90	55.6
SATISFIED	35	38.0	22	31.5	57	35.2
NEUTRAL	5	5.4	4	5.7	9	5.6
DISSATISFIED	1	1.1	4	5.7	5	3.0
VERY DISSAT.	0	0	1	1.4	1	0.6
TOTALS	92	100	70	100	162	100

4.5.6 Repeat Usage and Recommendation to Others

When asked if they would use the services of the Centre again, Figure 13 indicates that 90% of the respondents stated that they would. The results of the inquiry into their willingness to recommend the Centre to others, shows similar findings in that 94% reported a willingness to do so.

FIGURE 13

REPEAT USE/ RECOMMEND



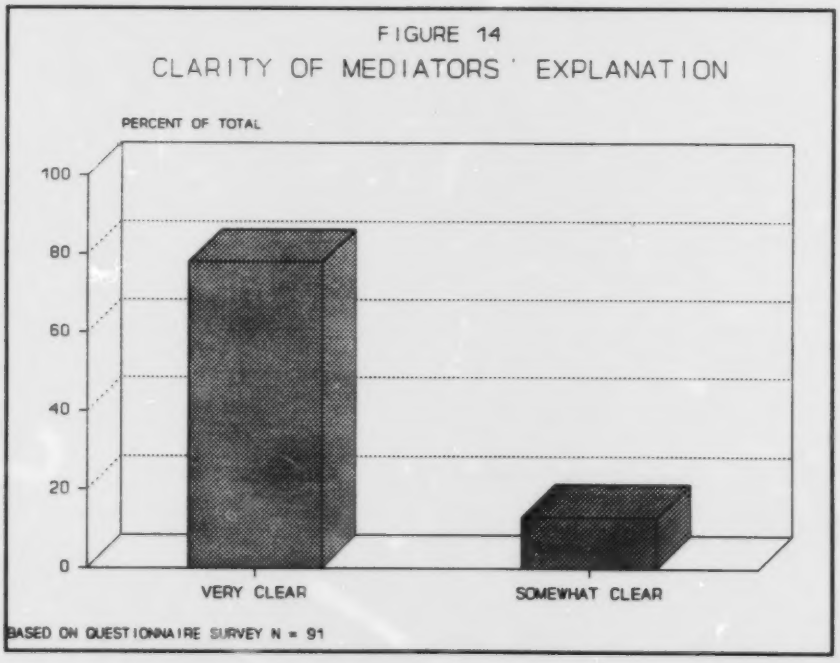
The results of the last two sections either meet, or exceed the highest levels of client satisfaction indicators which have been reported in studies summarized in the American or Canadian literature.

4.6 PROCESS INDICATORS: MEDIATION

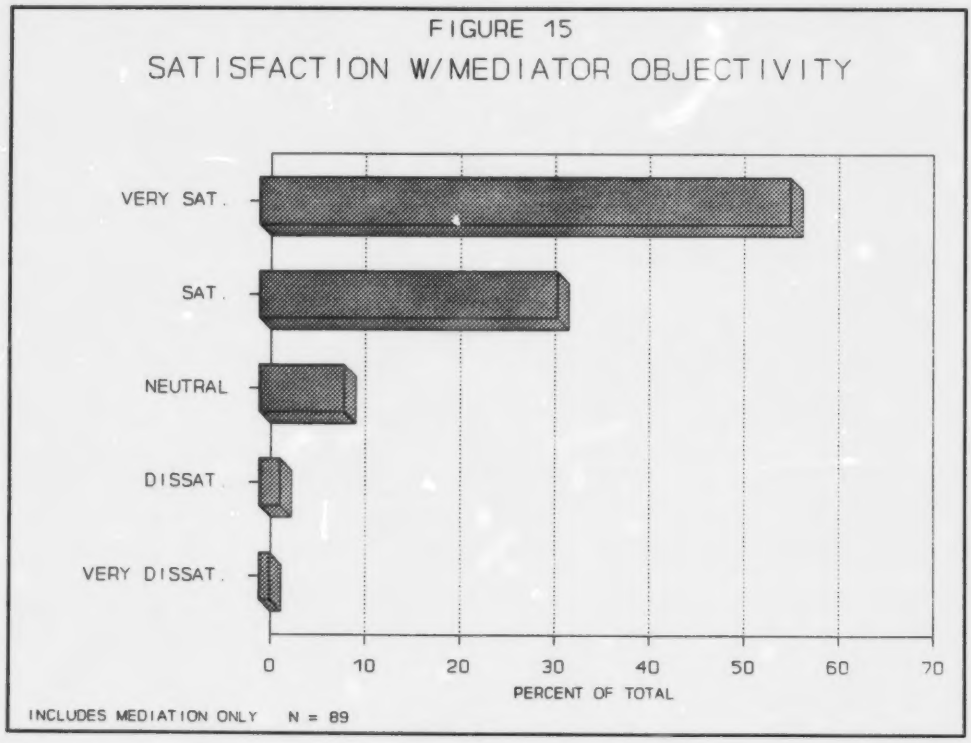
This section will highlight the results of the 235 telephone interviews which focused specifically on the reactions of both parties to the process of mediation. The factors explored will include clarity of the mediators explanation of the process, perceptions of mediators' impartiality, and overall satisfaction with mediation.

4.6.1 Clarity of Explanation and Mediators Impartiality

Figure 14 indicates that 86% of those surveyed felt that the mediators' explanation was very clear, and the balance of 14% evaluated it as somewhat clear.



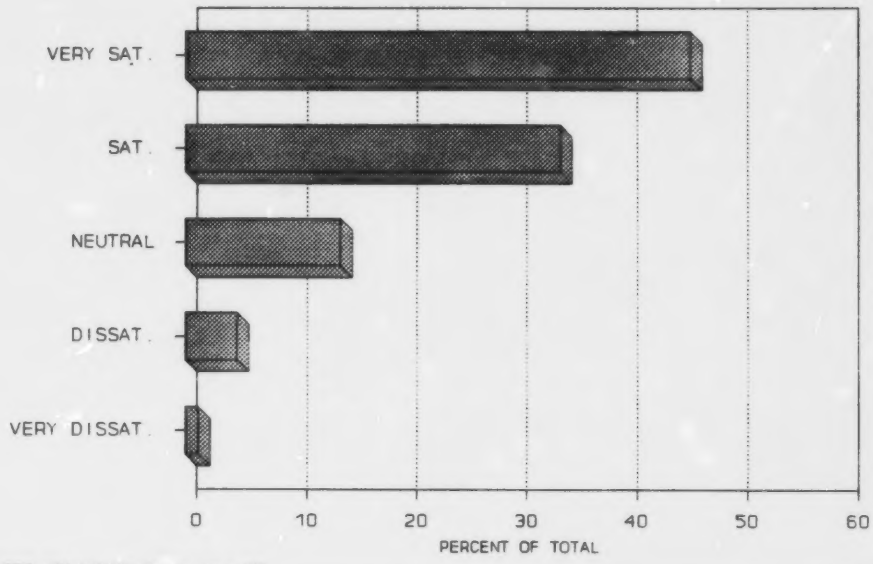
For the related question, Figure 15 shows that 88% of those surveyed were either satisfied or very satisfied with the mediators' objectivity.



4.6.2 Satisfaction With Mediation

Figure 16 shows that at least 80% of the respondents were satisfied with mediation, 14% were neutral, while 6% were either dissatisfied of very dissatisfied with the process. If we take clarity of explanation and mediators' impartiality (section 4.6.1) as indicators of fairness, these results would tend to support Vidmar's (1985) conclusion that there is a strong association between perception of fairness and client satisfaction.

FIGURE 16
SATISFACTION WITH MEDIATION

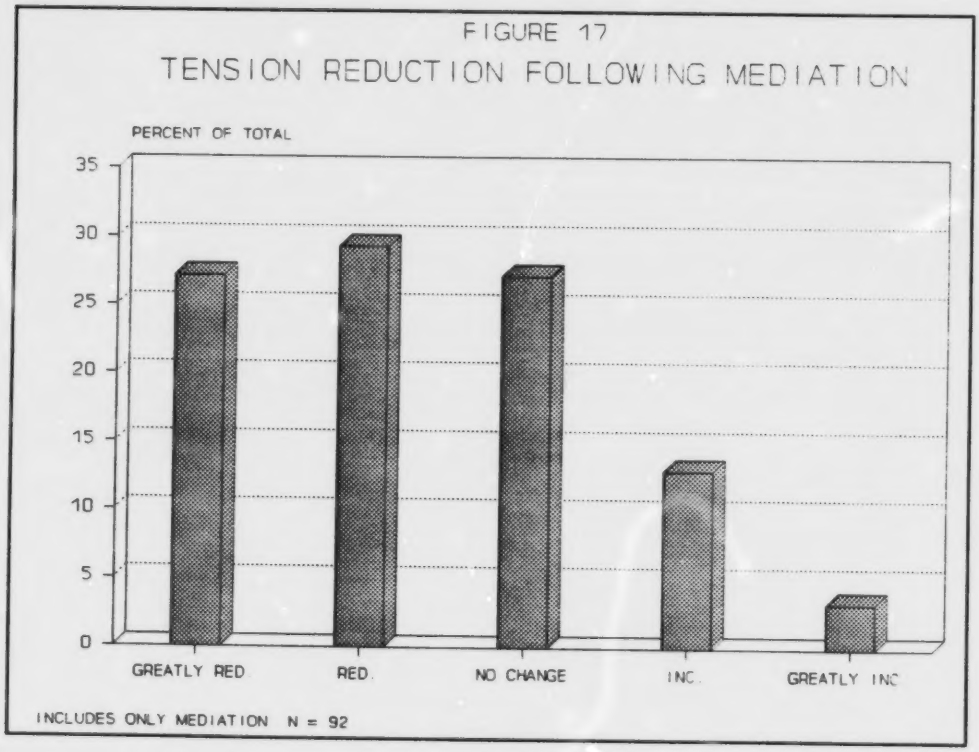


4.7 OUTCOME INDICATORS

The factors which were used to evaluate the outcome of mediation and conciliation included: the reduction in tension following mediation, the development of an agreement, satisfaction with the terms of the agreement, and rates of compliance with those terms. Parties whose files were classified as rejected were asked about the subsequent outcome of the dispute.

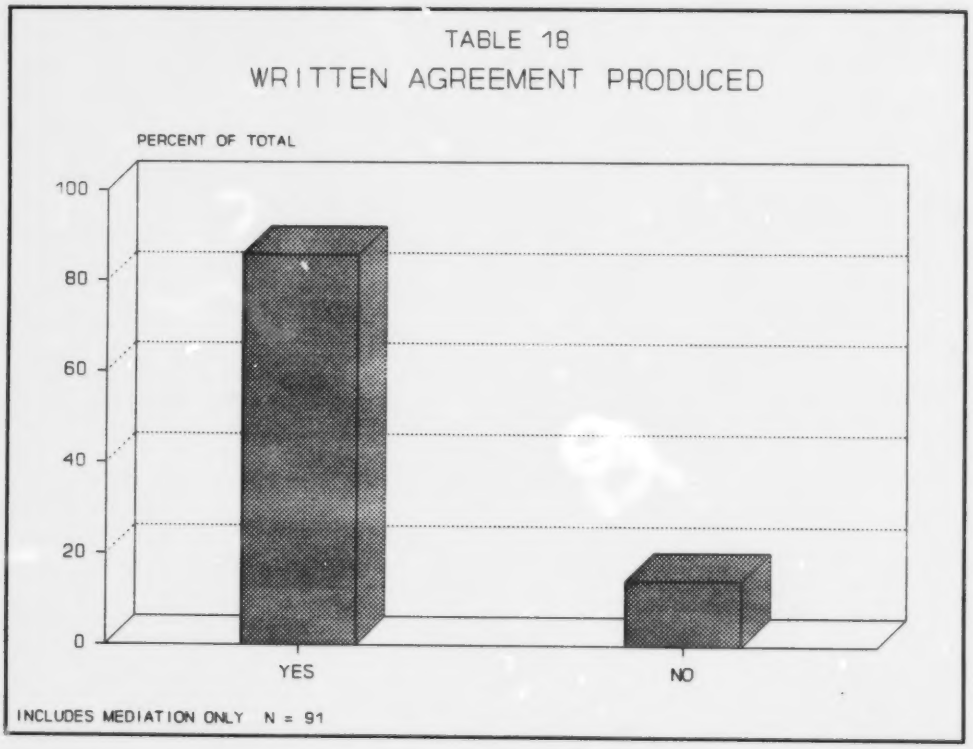
4.7.1 Reduction in Tension

As reported in Figure 17, 57% of the respondents indicated that the tension between themselves and the other party had been at least reduced following mediation. No change was reported by 27% of the respondents, and 16% felt that the tension had increased by the end of the session.



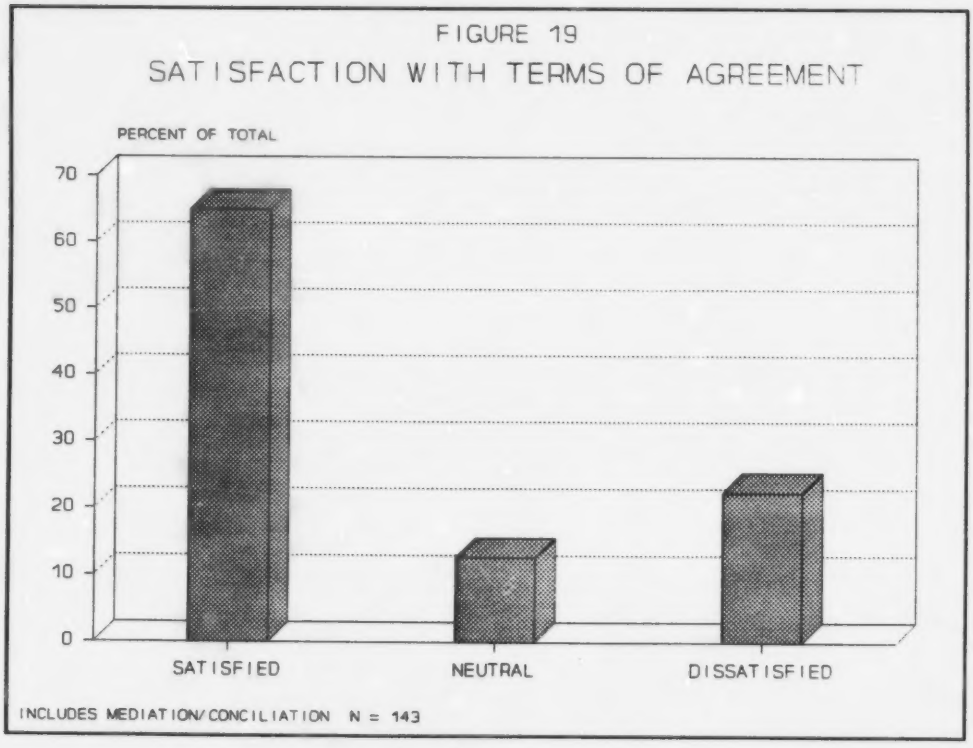
4.7.2 Agreement Rate

Of the total number of files opened, 23% went to mediation and 86% of those, as reported in Figure 18, resulted in an agreement being reached between the two parties. Conciliated cases made up 28% of the files opened and agreement was reached in 100% of those. Overall, agreement was reached in 51% of all files opened.



4.7.3 Satisfaction With Terms of the Agreement

Figure 19 illustrates that 65% of the respondents who had reached an agreement in either conciliation or mediation, indicated they were satisfied with the terms of the agreement. A further 13% were neutral and 22% indicated dissatisfaction with the terms of the agreement.



A comparison of the results according to file type in Table 15, reveals similar results for both mediation and conciliation.

TABLE 15

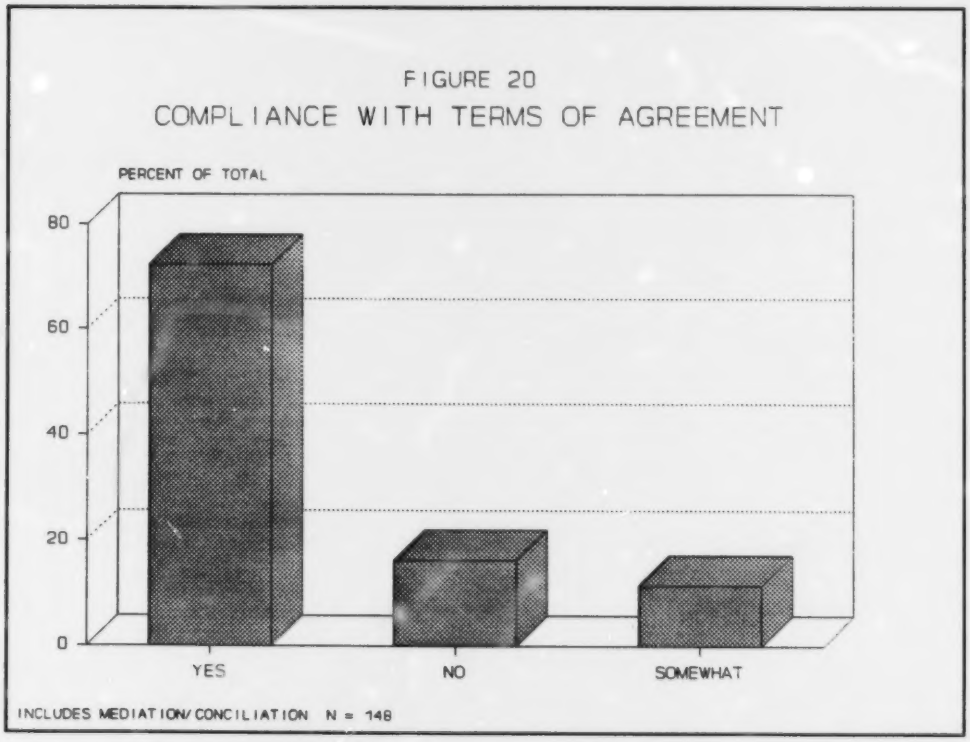
SATISFACTION WITH AGREEMENT BY FILE TYPE

	MED.		CON.		TOTALS	
	N	%	N	%	N	%
SATISFIED	51	65.4	42	64.6	93	65.0
NEUTRAL	12	15.4	6	9.2	18	12.6
DISSATISFIED	15	19.2	17	26.2	32	22.4
TOTALS	78	100	65	100	143	100

The major reason for the dissatisfaction appeared to be that in the mediation session people were aware that compromise was necessary in order to reach agreement. However, they were prepared, in many cases, to accept less or give more than they felt was their due, in the interests of reaching that agreement. The distinction can be clearly made between satisfaction with the process of mediation and that of satisfaction with the terms of the agreement itself.

4.7.4 Compliance Rates

The overall rate of compliance with the terms of the agreement (Figure 20) stands at 72%. A further 12% of those surveyed indicated that the terms had been partially complied with, while 16% reported no compliance.



When viewed according to type of case in Table 16, the compliance rate for mediated cases, 80%, is higher than the 64% rate for conciliation. Those participants reporting both partial or no compliance with the terms of the agreement are more likely to have been involved in conciliation.

TABLE 16

COMPLIANCE WITH AGREEMENT BY FILE TYPE

	MED.		CON.		TOTALS	
	N	%	N	%	N	%
YES	63	79.7	44	63.8	107	72.3
NO	9	11.4	15	21.7	24	16.2
SOMEWHAT	7	8.9	10	14.5	17	11.5
TOTALS	79	100	69	100	148	100

MED. = Mediation CON. = Conciliation

4.7.5 Outcome for Rejection Files

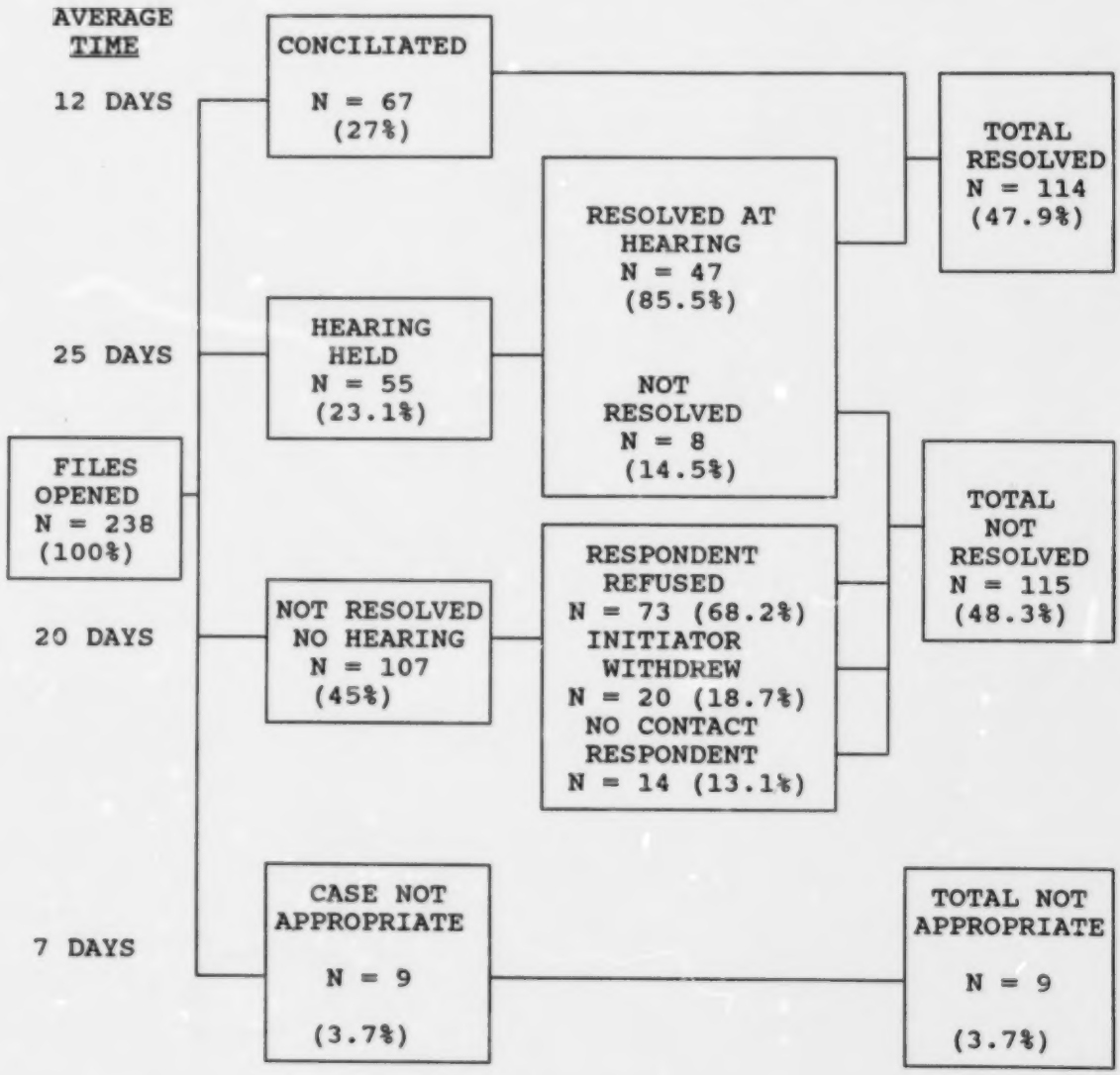
Of those people whose cases did not result in mediation or conciliation, 54% said that the dispute ended in litigation. Forty one percent of those surveyed reported taking no further action on the dispute, and that it remained unresolved.

The results of these sections have been summarized in Figure 21. They indicate that the 86% agreement rate for mediated cases was significantly higher than the 40% - 65% reported for American programs,(Pearson, 1982) and very close to the Windsor Essex rate of 74%,(Windsor-Essex,1984). The overall agreement rate of 50% was somewhat lower than the other B.C. program's rate of 60% reported in Morrison, 1984.

In the area of participant satisfaction the results either meet or exceed those reported in the literature. The compliance rates appear at first glance to be slightly lower than those reported in the literature, 72% as opposed to 88%. However the literature does not distinguish between full and partial compliance. When those two categories are combined for the current evaluation, the results indicate that the 84% for the DRC is indeed similar to that of other programs.

FIGURE 21

CASE DISPOSITION FLOW


AVERAGE TIME
12 DAYS
25 DAYS
20 DAYS
7 DAYS
FILES OPENED N = 238 (100%)
CONCILIATED N = 67 (27%)
HEARING HELD N = 55 (23.1%)
NOT RESOLVED NO HEARING N = 107 (45%)
CASE NOT APPROPRIATE N = 9 (3.7%)
RESOLVED AT HEARING N = 47 (85.5%)
NOT RESOLVED N = 8 (14.5%)
RESPONDENT REFUSED N = 73 (68.2%)
INITIATOR WITHDREW N = 20 (18.7%)
NO CONTACT RESPONDENT N = 14 (13.1%)
TOTAL RESOLVED N = 114 (47.9%)
TOTAL NOT RESOLVED N = 115 (48.3%)
TOTAL NOT APPROPRIATE N = 9 (3.7%)

COLUMN TOTALS N = 238 (100%) N = 238 (100%)

4.7.6 Case Study

The following study documents a dispute between a merchant and a consumer. The case has been selected because it contains most of the major elements identified in the previous sections of the report. Some of the circumstances have been altered to protect the identity of the individuals and the confidentiality of the mediation process.

Roger Merton, who makes a hobby of restoring classic cars, took one of his vehicles to Peter Johnson's shop to have the body painted. When a defect in the paintwork appeared six months later, Merton took the car back to Peter Johnson. Johnson disclaimed any liability for the defect. Merton claimed that he had been assured by an employee of Johnson's that he had a one-year guarantee. Johnson denied knowing of any guarantee being given.

Frustrated with not being able to get satisfaction, Merton then went to the Small Claim Court to file an action against Johnson. The Clerk there suggested that he also consider mediation as a way of resolving the dispute and gave him the information sheet included in Appendix H. Merton subsequently phoned the DRC to inquire about mediation and after discussing the situation with the Case Coordinator, agreed to try it.

Several days later, Johnson received a call from the Case Coordinator. She explained that Roger Merton had initiated a complaint with the DRC regarding the repairs to his car, and that he was interested in trying to reach an agreement through mediation. Johnson was clear that he did not feel responsible for

honouring a guarantee he had not personally given. But, he felt there might be some way of working out a solution and after learning about the procedure, he agreed to attend a mediation session.

The session, which was held three weeks later at the DRC, was attended by Johnson, Merton and a mediator appointed from the Centre. The mediator opened the session by explaining to both parties the following ground rules which would be observed for their meeting. The mediator would present all of the information she had about the case. Both parties would then be given an opportunity to present their perceptions of the situation at which time the other party would remain silent. Following disclosure, both parties and the mediator would ask questions to clarify understanding of the facts and situations which had been presented. At this time the mediator will help the parties to identify the areas of in which they had agreement and those which remain in conflict. Once the facts had been made clear and the areas of agreement and conflict had been identified the mediator would assist the parties to explore options and alternatives leading to an agreement. Both parties were to have responsibility for reaching agreement and the mediators job at this point would be to keep the discussion on track and to assist in identifying options.

When agreement was reached the mediator, would write the agreement out for both parties to sign. In the event that agreement could not be reached, the session would be ended and both parties would be free to explore options outside of mediation. Those could

include continuing the action in Small Claim Court, proceeding to arbitration or living with the disagreement.

As the case unfolded this is how it looked from the perspective of the two parties involved.

Roger Merton's Perspective

Cars were Roger's principal hobby in life. He takes a delight in acquiring old classics, renovating, and then displaying them at car club meets and shows. Last August he decided to get the bodywork re-painted on a 1968 Chrysler. Roger had done various jobs on the body himself, but didn't have the facilities for a full scale paint job. He got estimates from five bodyshops, of which two offered one year guarantees.

The best quote seemed to be the one from Peter Johnson's Paintshop. This was a small, family type of firm, where he talked with Al who gave him a price of $850 with a one year guarantee. Roger accepted this, and it was agreed that the job would start the next week. Al thought he could finish in about two weeks.

As things turned out, it took close to six weeks. Roger dropped in a few times to check on progress, talked to Al who seemed to be doing the work by himself, and met the owner Peter Johnson, on a couple of occasions. When the work was finished he thought that Al had done a good job, even if it had been slow. He settled the account with Peter.

Four weeks later Roger noticed some paint wrinkling on the car and was a bit worried that it might be a sign of a problem. He took the car back to Peter who fixed the problem by polishing at

no extra charge. However the following March, six months after the initial work had been done, he observed paint bubbles appearing around the fender and guessed that rust may be developing beneath the paint job.

Roger again went back to the shop. This time Peter refused to fix the problem. He was adamant that he was not liable for the paint bubbling or the rust appearing. When Roger told him that Al had given him a one year guarantee, he denied that Al had any authority to give any guarantees. A rather heated argument ensued. He was angry because he had gone to Peter with the intention of making some deal which would be mutually acceptable. He was not going to ask him to repair the job for nothing.

Frustrated with not getting anywhere in talking with Peter and feeling he was entitled to some compensation, Roger inquired at Small Claim Court about filing an action.

Peter Johnson's Perspective

Peter had been in the car body business since he left school 40 years ago. In the time he has had his own business, he has never had problems like this one. Peter would not give guarantees if the customer had done any work on the car before it came into the shop. He had no knowledge of any guarantee having been given to Roger Merton, and none of his employees had any authority to give one, not even Al who happened to be his son.

Peter remembered that Al had done most of the work on Roger's car. He may have done a bit of the sanding, but he was not sure.

He could not recall whether his shop had done the part of the car that Roger was complaining about.

He remembered seeing Roger on one or two occasions when he came into the shop while his car was there. It is a fairly small shop and it's hard to miss seeing people there. Peter remembered settling the bill with him. When Roger came back he obliged him, but there was never any mention of a guarantee. Rust is one of the most unpredictable problems in the business and it is simply unrealistic to give guarantees in cases like this. The person who called from the DRC seemed to think that mediation may be helpful in settling the argument. Peter was not sure about this but, agreed to at least give it a try.

Resolution

After each person had been given an opportunity to present the situation from their point of view, and ask any questions to clarify understanding the other's perspective, the mediator summed up the areas of agreement as follows. Both parties agreed that there was no written guarantee and that Roger having approved the initial job as satisfactory, had paid the account in full. Peter accepted that Roger had understandably been under the impression that a guarantee had been provided. Both agreed on the extent of work needed to repair the damage. Neither party felt that they should bear the full cost of honouring the guarantee.

In identifying the areas of conflict it was clear that Roger still felt that the verbal guarantee should mean something because he had been given it by one of Peter's employees. He was willing

to accept part of the cost of repairing the problem. Peter was clear that he did not feel obliged to bear the cost of honouring a guarantee he had not given. He was concerned however that Roger did actually believe that one had been provided to him.

After exploring a range of options and alternatives which involved different combinations of responsibility, money, labour, materials and equipment the parties came to an agreement.
Roger would do the necessary sanding and prepare the area for painting. Peter agreed to supply the materials and finish the paint job in his shop on the designated area. Both parties accepted the written agreement as full and final settlement of the dispute.

5. COST ANALYSIS

There are many similarities between mediation and adjudication but, they remain different systems which are not equal in all respects. Therefore, a comparative cost analysis such as this one must be approached carefully, keeping in mind the limitations inherent in making comparisons between the two distinct systems.

5.1 LIMITATIONS

The calculations of the cost per case of Small Claim Court actions are based on information which was compiled for two separate reports which date from 1984 and 1985. The first report (Morrison, 1984) calculates the average cost per case to be $65.00, while a later report, (Ministry of Attorney General, 1985) sets the cost at $55.57 per case in 1982 dollars. The costing model developed for the latter report, is more detailed and extensive than the previous one, and will therefore serve as the comparison for this analysis. The average annual increase in the Canadian Consumer Price Index for the period 1982 to 1989 was 6.9%. This factor was applied to the 1982 estimate, and compounded annually to arrive at a comparable figure in 1989 dollars.

The second limitation in this analysis is that the expenditures reported for the Dispute Resolution Centre are based on those reported and confirmed for the fiscal year 1988, combined with the current expenditures of the first five months of operation in 1989. The current expenditure figures may be shown to be incomplete when a final audit is performed at fiscal year end.

Finally, no referrals were processed at the DRC during the first three months of operation in 1988. The start up costs which were incurred during this period have been not been included in the total expenses of DRC, and are therefore not represented in the cost per case calculations. This has been done to allow a more equitable comparison to be made with the Ministry of the Attorney General (1985) figures which are based on operating costs alone.

5.2 COST PER CASE

The cost per unit was arrived at by comparing the adjusted cost per case in Small Claim Court, and the Total number of inquiries dealt with at the DRC. The data which were used to make this calculation are presented in Table 17 and the following pages.

TABLE 17

COMPARISON OF OPERATING COST PER CASE

		Cost / Case
Cost per small claim case (based on total number of actions filed)	1982	$55.57
Adjustment factor (6.9% per year)	1989	$87.64
		Cost / Unit
Total operating expenses of DRC April 1, 1988 - May 30, 1989	$37,472.84	
A. Total number of inquiries	619	$60.54
B. Total number of equivalent inquiries	546	$68.63
C. Total number of files opened	238	$157.45
D. Total number of conciliation and mediation cases	122	$307.15
E. Total number of mediations	55	$681.32

In order to interpret the Table one must find a point that is common to both systems. The Ministry of Attorney General (1985) report defines a case as "... any court action causing a file to be opened and a file number to be assigned." (p. 14) Using this definition, two interpretations of the data presented in Table 17 are possible.

In the first instance, the action of opening a file is a

comparable point in both systems, since a physical file is opened and a file number is assigned. The conclusion which would then follow is that the cost/unit at the DRC would be more than double that of the Small Claim Court.

In the second instance, the inquiry which is made to the DRC is logged and the subsequent action which was taken is recorded. This represents the first point in the system at which consistent and quantifiable action can be observed. As a result, it is the legitimate point at which to begin to measure productivity. Since this is the criteria which was also used to determine the starting point for calculating the cost/unit at Small Claim Court, it follows that it can also be used to calculate the cost/unit at the DRC.

However, in the Small Claim Court there is no equivalent to the Respondent Refused category of the DRC. In order to develop a more equitable comparison those cases have been removed from (A) Total number of inquiries, leaving (B) Total number of equivalent inquiries. One can conclude then that the number of equivalent DRC inquiries logged, and the number of Small Claim actions filed are similar points in the different systems.

Given the nature of the two systems and the assumptions specified in the Ministry of Attorney General, 1985 report, (p.14-15); the total number of equivalent inquiries provides the more valid point of comparison. The cost/unit of service at the DRC was $68.63 which is 21.7% lower than the Cost per Small Claim case, adjusted for 1989.

5.3 COURT DAYS SAVED

This section presents the results of calculating the equivalent amount of time which those cases processed at DRC, would have taken up on the Small Claim Court calendar. The results of that analysis are presented in Table 18 and show that a total of 10 days in equivalent Small Claim Court time were saved.

TABLE 18

EQUIVALENT SMALL CLAIM COURT TIME

NO. CASES		% LIKELY TO COURT		WEIGHTED CASES
MEDIATION / CONCILIATION 122	X	55% (Table 5.5)	=	67

WEIGHTED CASES		COURT TIME		TOTAL COURT TIME
67	X	0.75 HR./CASE	=	50 HOURS

TOTAL COURT TIME		AVERAGE COURT DAY		TOTAL COURT DAYS
50 HOURS	÷	5 HOURS	=	10 DAYS

The value for Weighted Cases represents the percentage of the mediated/conciliated cases that would likely have gone to court. Estimates of 0.75 hour/case and 5 hours per day were developed, in consultation with administrative staff at Small Claim Court. These estimates represent the average length of time needed to hear a case in Small Claim Court, and the average number of hours per day

in which hearings were held over the past thirteen months.

The result then indicates that the equivalent of 10 court days were saved from the Small Claim Court calendar, due to the conciliated and mediated cases being handled at the Dispute Resolution Centre. When taken in the context of the delays in the Small Claim Court calendar of up to six months (Victoria, 1987 p.4) the ten court days take on an added significance. The conclusion drawn is that since more people were able to resolve their disputes than would have had the services of the DRC not been available, the program resulted in a increase in people's access to justice.

6. COMMUNITY PERCEPTIONS

This Chapter reports the results of interviews which were conducted with representatives of various community organizations and government agencies. The agencies chosen were those that had been contacted by the Director in her efforts to promote the presence of the DRC in the community and to establish a mutual referral procedure.

6.1 PUBLIC PRESENTATIONS

During the period from January 11, 1988 to May 25, 1989 the Director made a total of 66 public presentations. These included radio and television appearances, newspaper interviews, and presentations to organizations such as Victoria area police, the Intercultural Association, University classes, the Better Business Bureau, Family and Parents' Services and City Council.

These presentations consisted of a description of the purpose of the DRC, the model of dispute resolution used, the type of situations it is equipped to deal with, and how to contact the Centre. Examples of the newspaper articles, brochures and information posters are included in Appendix E.

6.2 INTERVIEWS WITH REFERRAL AGENTS

A total of ten interviews were conducted with representatives of eight organizations which accounted for over 80% of the referrals made to the DRC. The sample chosen was designed to include the major sources of referrals and is not necessarily representative of this population.

The majority of those interviewed (n = 6) first heard about the DRC when the Director came to make a presentation. Several (n = 3) had known about the efforts to establish a community based dispute resolution centre and had been familiar with the concept. Most (n = 7) of the organizations either had copies of the brochure available for distribution or had placed a copy of the information poster in a visible location. In one instance the only information available was in the form of an outdated information sheet.

When asked about their understanding of mediation, all of the respondents reported that the process was a voluntary one in which the responsibility for coming to an agreement rested with the disputants, while the mediator served as facilitator.
Beyond that they displayed varying degrees of familiarity with the

process. Three of the respondents tended to confuse some aspects of arbitration with those of mediation. Others had inconsistent information about such aspects as whether or not the agreement was binding, or whether it could be presented in a small claims action. Many of the individuals (n = 5) were not familiar with the conciliation process of settling the dispute.

The referral process in all cases amounted to giving the client a verbal explanation of the service, in the course of presenting the options available to them. Selection criteria were non specific except in the case of government agencies which used the mandate of the applicable legislation to serve as a guide. All respondents stressed the importance of the disputant's being willing to participate in the process.

None of the agencies contacted kept any record of the number of referrals they made, nor did they receive any reports from the DRC about referrals received. When asked whether that information was useful, most (n = 5) indicated that a brief summary of the number, source and disposition of referrals would be useful. The police forces in particular, indicated that regular and consistent contact between the officers and the DRC staff was important in establishing a referral practice. They also made reference to the need to have convenient, readily available information cards provided to patrol officers, for informing potential clients about the service.

6.3 SMALL CLAIM COURT

The referral process used by the clerks in Small Claim Court is significantly different from that of other referral sources and is therefore reported separately. In June of 1988, His Honour Judge R.W. Metzger, Acting Administrative Judge of the Provincial Court issued a memorandum (Appendix F) outlining the procedure to be followed in referring potential litigants to the DRC.

In summary, it calls for specific information about the Centre to be included in the information packet which is given to plaintiffs and defendants, who are considering filing an action.

At the time the person makes the inquiry, they are given the application form with the attached sheet, and the option of seeking mediation is explained to them. Individuals may then voluntarily choose to: proceed with filing the action in Small Claim Court; choose to pursue mediation at the DRC instead of filing an action; or take both types of information with them to further consider their options.

In situations where the plaintiff has filed an action and the defendant appears at the Court desk to file a dispute, they will receive a Notice of Intent to Dispute. This Notice also has a form attached to it which provides the same information previously given to the plaintiff. The defendant also has the option to seek mediation and may choose it as an alternative to proceeding with litigation. Copies of both forms are included in Appendix G. The procedure defined in the memorandum has been adopted and was being used at the time of this writing.

7. CONCLUSIONS AND RECOMMENDATIONS

This Chapter presents the major conclusions of the evaluation which are based on the results of the foregoing analysis. Recommendations follow the conclusions.

7.1 COMMUNITY NEED FOR ALTERNATE DISPUTE RESOLUTION

The demand in the community for ADR services has exceeded initial expectations, and shows the potential to increase significantly beyond present levels.

Findings That Support the Conclusion

* The DRC processed 619 information inquiries and 238 case files in the first 14 months of operation, which greatly exceeds the 40 per month expected from the Need Assessment.

* The trend has been for the rate of referrals to continue to increase over time.

* Referrals were received from a total of 19 different organizations in the community.

7.2 THE DEVELOPMENT OF CAPABLE MEDIATORS

The DRC has recruited and trained a corps of well qualified mediators who have been able to provide the expected volume of service.

Findings That Support the Conclusion

* 31 mediators have been recruited and or trained at the DRC.

* The self assessment reports indicate that the training has equipped mediators to effectively conduct mediation sessions.

* All indicators of satisfaction including:
  assistance/understanding provided by Case Coordinator;
  clarity of mediators explanations;
  objectivity of mediators;
  satisfaction with mediation;
  and satisfaction with the Centre;
  provide consistently very high ratings from participants.

7.3 EFFECTIVENESS OF MEDIATION

The mediation model as practised at the DRC has demonstrated its capacity to effectively resolve disputes in a timely manner.

Findings That Support the Conclusion

* An agreement in conciliation and mediation is reached on average within 17 days of the initiator contacting the DRC, as compared to the 225 - 330 days required to complete litigation.

* 47.9% of all files opened and 85.5% of mediation hearings have resulted in an agreement being reached by the disputing parties.

* 65% of the participants to conciliation or mediation report being satisfied with the terms of the agreement, and over half of them experience a reduction in tension between the parties, following the hearing.

* 84% of agreements are partially or fully complied with.

* Over 90% of all participants are satisfied with the services provided, would use the services again, and would recommend them to someone else.

* Over 80% of participants to mediation considered the mediators to be impartial, to have explained the process very clearly and were satisfied with the mediation process.

7.4 IMPACT ON SMALL CLAIM ADJUDICATION PROCESS

The Dispute Resolution Centre has demonstrated a capacity to resolve minor civil disputes out of court.

Findings That Support the Conclusion

* Ten court days saved in the first fourteen months of operation (total weighted court hours = 50) with the potential to save a greater number of days in the future.

* The cost/unit at the DRC is approximately 22% lower than that of Small Claim Court.

* 56% of referrals from all sources are likely, in the absence of the DRC, to go to Small Claim Court.

* 53.6% of all cases not proceeding to mediation have resulted in litigation.

* 86% of those cases going to mediation reach an agreement.

7.5 APPLICATION TO OTHER COMMUNITIES

The program model, as practised at the DRC, has proven to be successful in meeting the needs of this community for Alternate Dispute Resolution services.

RECOMMENDATIONS

* The Board of Directors and the Executive Staff of the DRC coordinate the impending increase in community profile with the development of:

  (a) policies and procedures to improve efficiency and increase consistency in the handling of inquiries and opened files;

  (b) staffing levels and budgetary resources, as well as facilitates and equipment, to meet the expected demand.

* The Program Director and Case Co-ordinator at the DRC renew contact with police forces, service agencies, community leaders, and neighbourhood groups to sustain the profile of the program in the community and to address any information gaps within referral sources.

* The DRC staff update and distribute to potential referral agencies, the brochures and information posters describing the service and referral process.

* The Staff at Small Claim Court incorporate the results of the evaluation into the information packet provided to potential plaintiffs and defendants.

* The DRC, Ministry of the Attorney General and Small Claim Court study the effect of making this information available to plaintiffs and defendants, to determine if increased awareness of the DRC in the community will lead to a reduction of actions filed in Small Claim Court, and or, an increase in referrals to the DRC.

* The DRC incorporate its programs and procedures into a package that could be used to assist other communities with the development of similar services.

* The Ministry of the Attorney General investigate the feasibility of providing the start up funds, where they are needed, to institute similar programs in other communities having a demonstrated need.

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APPENDIX A

DOCUMENT SEARCH FORM

1. File # _____

2. Party A _____ 5. Party B _____

3. Work _____ 6. Work _____
4. Home _____ 7. Home _____

8. Date Open Day_____ Month_____ Year_____

9. Mediation ( ) 10. Conciliation ( )

11. Referral Source _____

12. Type of Dispute

a) LL/Tenant ( ) b) Small Claims ( )

c) Neighbourhood ( ) d) Consumer/Merchant ( )

e) Business Associates ( ) f) Employer/Employee ( )

g) Co-workers ( )

h) Roommates/Acquaintances/Friend ( )

i) Other _____

13. Dollar Value of Agreement _____

14. Relationship of Parties _____

15. Date Second Party Contacted Day____ Month____ Year_____

16. Date Mediation Set Day____ Month____ Year_____

17. Date Agreement Reached Day____ Month____ Year_____

18. Date File Closed Day____ Month____ Year_____

19. Total Time Days_____

20. Number of Contacts Before Mediation/Conciliation_____

21. Length of Mediation Hours_____

22. Rejection a. withdrawn ( ) b. respondent refused ( )

c. inappropriate ( ) d. respondent no contact ( )

APPENDIX B

FOLLOW UP QUESTIONNAIRE

CONCILIATION

1. File number_____

2. Interviewer_____

3. Type of file
   a. Mediation ( )
   b. Conciliation ( )
   c. Rejection ( )

4. Interview with
   a. Party A ( )
   b. Party B ( )

Hello, my name is _____ and I am calling from the Dispute Resolution Center of Victoria, where I am part of a team that is evaluating the program. We need your help in assessing how well we've done and what we can do to improve. While this information is important to our funding agencies and to government policy, we have taken precautions to ensure that there will be no connection between you and the responses you provide.

I would like to ask you some questions about your experience with the Center, which take about 10 minutes to complete. Do you have the time now to help us with the survey?

   a. yes (see 6) ( )
   b. no (see 5) ( )

5. What time would be convenient for me to call you back?

_____

The first two questions have to do with the service you received from the Reception staff.

6. How helpful was the intake worker in informing you about the services of the Center?

a. very helpful ( )
b. moderately helpful ( )
c. slightly helpful ( )
d. not at all helpful ( )

7. How well did the worker understand the nature of y o u r problem?

a. very well ( )
b. fairly well ( )
c. poorly ( )
d. very poorly ( )
e. Dk / Nr ( )

The next questions are about the resolution of the dispute.

12. Was the other party someone that you need to have a continued association with?

a. yes (see 13) ( )
b. no (see 18) ( )

13. How helpful was the process in enabling you to resume or establish an amiable relationship?

a. very helpful ( )
b. moderately helpful ( )
c. slightly helpful ( )
d. not helpful at all ( )
e. Dk / Nr ( )

18. Have the terms of the agreement been met ?

a. yes (see 21) ( )
b. no (see 19) ( )
c. somewhat (see 19) ( )

19. What is the cause of the agreement not being met?

_____

_____

_____

21. How satisfied were you with the final agreement?

a. very satisfied ( )
b. satisfied ( )
c. neither satisfied nor dissatisfied ( )
d. dissatisfied ( )
e. very dissatisfied ( )

23. What is the likelihood that you or the other party would have gone to court if mediation had not been available?

a. very likely ( )
b. likely ( )
c. unlikely ( )
d. very unlikely ( )
e. Dk / Nr ( )

24. Overall, how satisfied were you with the services you received at the Center?

a. very satisfied ( )
b. satisfied ( )
c. neither satisfied nor dissatisfied ( )
d. dissatisfied ( )
e. very dissatisfied ( )

25. Would you use the services of the Center again to settle a dispute?

a. yes ( )
b. no ( )

26. Would you recomend the services of the Center to someone else ?

a. yes ( )
b. no ( )

This last set of questions will help us learn something about the background of people who might use our services.

27. Are you a. female ( ) b. male ( )

28. What is your age ? (specify the ranges)

a. below 17	( )	e. 40 - 49	( )
b. 17 - 20	( )	f. 50 -59	( )
c. 21 - 29	( )	g. 60 - 65	( )
d. 30 - 39	( )	h. 65+	( )

29. What is your estimated annual family income? (do not specify ranges)

a. less than $9000	( )	d. $ 25001 - 35000	( )
b. $ 9000 - 16000	( )	e. $ 35001 - 45000	( )
c. $ 16001 - 25000	( )	f. $ 45001 +	( )

30. What level of education have you completed ? (do not specify ranges)

a. up to gr. 8	( )	e. college graduate	( )
b. some high school	( )	f. some university	( )
c. high school	( )	g. university grad.	( )
d. some college	( )		

31. Is there anything else that you would like to add at this point ?

_____

_____

_____

That completes the survey. Thank you very much for your assistance.

APPENDIX C

FOLLOW UP QUESTIONNAIRE

MEDIATION

1. File number_____

2. Interviewer_____

3. Type of file	a. Mediation	( )
	b. Conciliation	( )
	c. Rejection	( )
4. Interview with	a. Party A	( )
	b. Party B	( )

Hello, my name is _____ and I am calling from the Dispute Resolution Center of Victoria, where I am part of a team that is evaluating the program. We need your help in assessing how we've provided services and what we can do to improve them. While this information is important to our funding agencies and to government policy, we have taken precautions to ensure that there will be no connection between you and the responses you provide.

I would like to ask you some questions about your experience with the Center, which take about 10 minutes to complete. Do you have the time now to help us with the study?

a. yes (see 6)	( )
b. no (see 5)	( )

5. What time would be convenient for me to call you back?

_____

The first two questions have to do with the service you received from the Reception staff.

6. How helpful was the intake worker in informing you about the services of the Center?

a. very helpful ( )
b. moderately helpful ( )
c. slightly helpful ( )
d. not at all helpful ( )

7. How well did the worker understand the nature of y o u r problem?

a. very well ( )
b. fairly well ( )
c. poorly ( )
d. very poorly ( )
e. Dk / Nr ( )

The next questions are related to the mediation hearing.

8. How clearly did the mediator explain the mediation process ?

a. very clearly ( )
b. somewhat clearly ( )
c. not clearly ( )

9. How satisfied were you that the mediators acted impartially?

a. very satisfied(see11) ( )
b. satisfied (see11) ( )
c. neither satisfied nor dissatisfied ( )
d. dissatisfied(see 10) ( )
e. very dissatisfied(10) ( )

10. What was it that caused you to become dissatisfied

_____

_____

_____

11. At the end of the session, would you say the tension between yourself and the other party was

a. greatly reduced	( )
b. reduced	( )
c. the same as before	( )
d. increased	( )
e greatly increased	( )
f. Dk / Nr	( )

12. Was the other party someone that you needed to have a continued association with?

a. yes (see 13)	( )
b. no (see 14)	( )

13. How helpful was the mediation process in enabling you to resume or establish an amiable relationship?

a. very helpful	( )
b. moderately helpful	( )
c. slightly helpful	( )
d. not helpful at all	( )
e. Dk/ Nr	( )

14. Overall, how satisfied were you with the conduct of the mediation session?

a. very satisfied	( )	(see 15)
b. satisfied	( )	(see 15)
c. neither satisfied nor dissatisfied	( )	
d. dissatisfied	( )	(see 16)
e. very dissatisfied	( )	(see 16)

15. What specifically was it that was satisfying ?

_____

_____

_____

16. What was it that you were dissatisfied about?

_____

_____

_____

I would like now to ask you some questions about the outcome of the mediation.

17. Did the mediation result in a written agreement?

a. yes	(see 18)	( )
b. no	(see 22)	( )

18. Have the terms of the agreement been met?

a. yes	(see 20)	( )
b. no	(see 19)	( )
c. somewhat	(see 19)	( )

19. What is the cause of the agreement not being met?

_____
_____
_____

20. How satisfied were you with the degree of influence you had on negotiating the agreement?

a. very satisfied	( )
b. satisfied	( )
c. neither satisfied nor dissatisfied	( )
d. dissatisfied	( )
e. very dissatisfied	( )

21. How satisfied were you with the final agreement itself ?

a. very satisfied	( )
b. satisfied	( )
c. neither satisfied nor dissatisfied	( )
d. dissatisfied	( )
e. very dissatisfied	( )

22. What prevented you from reaching an agreement?

_____
_____
_____

23. What is the likelihood that you or the other party would have gone to court if mediation had not been available?

a. very likely ( )
b. likely ( )
c. unlikely ( )
d. very unlikely ( )
e. Dk / Nr ( )

We are coming to the end of the survey now, and the next three questions are more general in nature.

24. Overall, how satisfied were you with the services you received at the Center?

a. very satisfied ( )
b. satisfied ( )
c. neither satisfied nor dissatisfied ( )
d. dissatisfied ( )
e. very dissatisfied ( )

25. Would you use the services of the Center again to settle a dispute?

a. yes ( )
b. no ( )

26. Would you recommend the services of the Center to someone else ?

a. yes ( )
b. no ( )

This is the last set of questions, and it will help us to understand the background of people who might use our services.

27. Are you a. female ( ) b. male ( )

28. What is your age ? (specify the ranges)

a. below 17	( )	e. 40 - 49	( )
b. 17 - 20	( )	f. 50 -59	( )
c. 21 - 29	( )	g. 60 - 65	( )
d. 30 - 39	( )	h. 65+	( )

29. What is your estimated annual family income? (do not specify range)

a. less than $9000	( )	d. $ 25001 - 35000	( )
b. $ 9000 - 16000	( )	e. $ 35001 - 45000	( )
c. $ 16001 - 25000	( )	f. $ 45001 +	( )

30. What level of education have you completed ?
(do not specify range)

a. up to gr. 8	( )	e. college graduate	( )
b. some high school	( )	f. some university	( )
c. high school grad.	( )	g. university grad.	( )
d. some college	( )		

31. Is there anything else that you would like to add at this point ?

_____

_____

_____

That completes the questionnaire. Thank you very much for your assistance.

APPENDIX D

FOLLOW UP QUESTIONNAIRE

REJECTION

1. File number_____

2. Interviewer_____

3. Type of file
   a. Mediation ( )
   b. Conciliation ( )
   c. Rejection ( )

4. Interview with
   a. Party A ( )
   b. Party B ( )

Hello, my name is _____ and I am calling from the Dispute Resolution Center of Victoria, where I am part of a team that is evaluating the program. We need your help in assessing how well we've done and what we can do to improve. While this information is important to our funding agencies and to government policy, we have taken precautions to ensure that there will be no connection between you and the responses you provide.

I would like to ask you some questions about your experience with the Center, which take about 10 minutes to complete. Do you have the time now to help us with the survey?

   a. yes (see 6) ( )
   b. no (see 5) ( )

5. What time would be convenient for me to call you back?

_____

6. How helpful was the intake worker in informing you about the services of the Center?

   a. very helpful ( )
   b. moderately helpful ( )
   c. slightly helpful ( )
   d. not at all helpful ( )

7. How well did the worker understand the nature of y o u r problem?

a. very well ( )
b. fairly well ( )
c. poorly ( )
d. very poorly ( )
e. Dk / Nr ( )

12. Was the other party someone that you need to have a continued association with?

a. yes ( )
b. no ( )

32. How did you settle the dispute ?

a. family court ( )
b. small claims court ( )
c. native court worker ( )
d. police ( )
e. law center ( )
f. lawyer ( )
g. rentalsman ( )
h. ombudsman ( )
i. mental health clinic ( )
j. M.S.S.H. ( )
k. other (see 14) ( )

32.A. Other

a. Municipal Government ( )
b. M.P. / M.L.A. ( )
c. arbitration ( )
d. friend/relative ( )
e. better/business bureau ( )
f. do nothing ( )

25. Would you use the services of the Dispute Resolution Center in the future to settle a dispute?

a. yes ( )
b. no ( )

26. Would you recommend the services of the Center to someone else ?

a. yes ( )
b. no ( )

This is the last set of questions and it will help us learn something about the background of people who might use our services.

27. Are you a. female ( ) b. male ( )

28. Is your age

a. below 17	( )	e. 40 - 49	( )
b. 17 - 20	( )	f. 50 -59	( )
c. 21 - 29	( )	g. 60 - 65	( )
d. 30 - 39	( )	h. 65+	( )

29. What is your estimated annual family income? (do not specify ranges)

a. less than $9000	( )	d. $ 25001 - 35000	( )
b. $ 9000 - 16000	( )	e. $ 35001 - 45000	( )
c. $ 16001 - 25000	( )	f. $ 45001 +	( )

30. What level of education do you have ?

a. up to gr. 8	( )	e. college graduate	( )
b. some high school	( )	f. some university	( )
c. high school	( )	g. university grad.	( )
d. some college	( )		

31. Is there anything else that you would like to add at this point ?

_____

_____

_____

That completes the survey. Thank you very much for your assistance.

APPENDIX E

GUIDELINE FOR INTERVIEWS WITH REFERRAL AGENTS

1. How and when did you learn about the services of the Dispute Resolution Center?

2. What information about the Center do you have available for potential clients?

3. What is your understanding of the process of mediation?

4. Would you describe the process you use in referring clients to the Center?

5. What criteria do you use in selecting potential clients for referral?

6. How many referrals have you made since the program started?

7. What records do you keep of the referrals you have made?

8. Do you receive any report or feedback from the Center about referrals?

_____

9. Would you like to get such information?

_____

10. Have you been satisfied with the service provided by the Center?

_____

_____

11. Would you recomend the Center to your colleagues?

_____

_____

12. Is there anything else that you would like to add?

_____

APPENDIX F

VICTORIA MEDIATION ARBITRATION CENTRE

#402 - 535 YATES ST., VICTORIA, B.C. V8W 2Z6 (604) 383-4412

The Mediation Arbitration Centre handles disputes that involve:

LANDLORD-TENANT	CO-WORKERS
CONSUMER-MERCHANT	NEIGHBOURS
SMALL-CLAIMS	RELATIVES
EMPLOYER-EMPLOYEE	FRIEND, ROOMATE, AQUAINTANCES

MEDIATION is a process during which those in dispute voluntarily agree to meet in the presence of Mediators who will assist them in finding a mutually acceptable solution to their problem.

IF YOU ARE INTERESTED IN USING THIS ALTERNATIVE TO RESOLVE A DISPUTE:

* Put your name and phone number on the attached referral form and leave at the agency that supplied this information. OR
* Bring the referral form to us at a later date. We are located at: #402-535 Yates Street. HOURS ARE 8:30-4:30. OR
* Call the centre at 383-4412

WHAT HAPPENS NEXT?

* We will ask for a brief outline of your case.
* If your case is appropriate for mediation we will ask for the names, addresses and phone numbers of all the individuals involved in the dispute.
* You or, if you wish, the Centre will contact the other party.
* If they agree to mediation we will schedule your case at a mutually convenient time and place within two weeks after both parties agree to mediation.

WHAT DOES IT COST?

* It will cost $15.00 per party payable at the start of the mediation session. A session will not exceed 2½ hours.

WHEN AN AGREEMENT IS REACHED the mediator will write up the agreement for both parties to sign.

THEN the Centre will call both parties 3-4 weeks after mediation to verify that the terms of the agreement have been honoured.

IF AN AGREEMENT IS NOT REACHED a second session may be scheduled.

WHEN AGREEMENT CANNOT BE REACHED the parties can decide what futher action, if any, they wish to take. Options may include: Arbitration or legal action.

SPONSORED BY THE VICTORIA ASSOCIATION FOR COMMUNITY DIVERSION MEDIATION SERVICES

TIMES COLONIST: SATURDAY APRIL 23,1989

alternative to court

By Doug Kelk
Times-Colonist staff

Nude hot tub revellers next door insist on partying in full view of your children's bedroom windows.

A roommate, bitter over a disagreement, has packed up and left the apartment without paying a share of the bills.

■ STANLEY

A landlord unfairly refuses to return most of your damage deposit.

All three disputes could go to small claims court — or to the Victoria Mediation-Arbitration Centre.

Centre director Dinah Stanley said Friday the centre, which opened this month, provides advantages over small claims court where someone wins and someone loses.

"The centre provides a service that is cheaper, faster, private and allows the parties to resolve their own problems with the help of a mediator."

Stanley said resolution of mediated disputes tends to be more final, having been reached by consent rather than an order imposed by courts.

A study in Maine showed mediated settlements were paid in full 71 per cent of the time; only 34 per cent reached through adjudication were fully paid.

"We only charge $10 for a hearing and, in cases where people cannot afford that, we don't charge at all," said Stanley, who has more than six years' experience as a social worker dealing with the legal system.

It costs $25 to file a summons in small claims court and then about $10 to $25 in service fees to provide the defendant with a copy of the summons.

If the judge rules in favor of the plaintiff, the defendant is required to pay the court fees.

The centre allows the parties to schedule their meetings as they like, usually within two weeks of the dispute being entered.

In small claims court, the parties wait about two to three months before going before the judge and then have limited time to solve the dispute.

"It's important to note that the problem may not be the real source of the dispute," said Stanley.

"It may be something offensive said by one party against another and the mediation process allows flexibility.

"And in cases where the parties will have a continuing relationship, it is preferable if they can come to an agreement rather than win or lose in court."

Stanley said the centre now has six volunteer mediators. A mediator training course is planned for late May. She hopes to see a core of 15 to 20 in place soon.

Mediators, trained by the centre, do not give legal advice.

When mediation fails, the parties may opt for arbitration in which an independent third party, chosen by both parties in the dispute, listens to both sides and decides on a solution.

Stanley said in the three weeks since the centre opened she has had "good co-operation from the court services people."

But judges have some reservations, she said.

"I think they're afraid this process will deny people their rights in court. I hope to convince them that this will by no means be a substitution for court."

Stanley said the centre needs adequate, assured funding for three years to give it time to assess its impact on the court system.

The centre, unique in B.C., is part of a "demonstration project" that receives annual funding of $25,500 a year for two years, short of the requested $42,370 a year.

The funding comes from the federal Justice Department — $15,000; Law Foundation — $5,000; B.C. Ministry of the Attorney General — $3,500; Labor and Consumer Affairs Ministry — $2,000.

Stanley said title of the centre is likely to be changed from Victoria Mediation-Arbitration Centre to the Victoria Dispute Resolution Centre because people often misread "mediation" as "meditation."

BUSINESS EXAMINER, JUNE 1988

THE VICTORIA MEDIATION ARBITRATION CENTRE, which will be known as the Dispute Resolution Centre, is part of an evolving new concept within the justice system. The Centre, located at #402, 535 Yates Street, offers mediation services to Victoria residents as an alternative to legal action for small claims and minor civil disputes. The goals are to provide an alternative to Small Claims Court. Mediation hearings are voluntary and both parties must agree to mediation before the process can begin. The real advantage is that the parties are responsible for reaching their own agreement, rather than having a decision imposed on them by a judge. Charges are $10 per party for a mediation hearing. However, none will be denied a hearing because of inability to pay. For more information, contact Lynn Car at 383-4412.

VICTORIA BUSINESS REPORT, MAY 1988

A DISPUTE? DON'T TAKE IT TO COURT

The **Dispute Resolution Centre** (402-535 Yates, **383-4412**) opened its doors April 1, offering an alternative to the legal system for settling small claims, landlord-tenant actions and other minor civil disputes.

Primarily intended for individuals, spokesman **Lyn Car** says its services could also be used by businesses. "I think there will be lots of opportunities for business to use the service," she says.

The centre doesn't want to infringe on present services offered by the **Better Business Bureau**, but disputes between tenants or between landlord and tenants, disagreements between merchants and customers, employer-employee relations — all could use the centre.

It isn't a substitute for the courts. Car says the centre's trained mediators help the disputants to reach their own mutually agreeable settlement.

Director **Dinah Stanley**, who has a background in social work, says mediation is a better way of settling some disputes than the adversarial court system, especially where the individuals must relate to each other in the future — for example, two neighbours, or an employer and a staff member.

The cost of the centre's service is only $10 per person (compared with $25 for filing a small claims action). Funding comes from both provincial and federal government departments and the **B.C. Law Foundation**. Mediators are volunteers from the community, and hearings can be held virtually anywhere around town — evenings or on Saturdays, if the individuals aren't free on weekdays.

APPENDIX G

PROVINCIAL COURT JUDICIARY

THE PROVINCIAL COURT
OF BRITISH COLUMBIA

INTEROFFICE MEMORANDUM

To: All Judges, S.V.I. Region Date: June 9, 1988

From: His Honour Judge R.W. Metzger
Acting Administrative Judge Subject:

Re: Dispute Resolution Centre

BACKGROUND

The Mediation Arbitration Centre which will be known as the DISPUTE RESOLUTION CENTRE officially opened April 1, 1988. The Centre was established in order to offer mediation services as an alternative to legal or court action in minor civil disputes. Funding for the project is from the Federal Department of Justice, the Law Foundation, the Ministry of the Attorney General, and the Ministry of Labour and Consumer Services.

The proposal for the project was developed by Keith Jobson, Professor of Law at the University of Victoria and Board Member of the Victoria Association for Community Diversion and Mediation Services.

The University of Victoria has a continuing interest in this project. Second year law students are offered a course in mediation, titled Alternative Dispute Resolution, (currently oversubscribed.) They are then available to assist the pool of mediators.

PROGRAM GOALS

The Program seeks to provide a method for resolving minor civil disputes between parties who are unable to secure assistance through established agencies or for whom court action or the involvement of a lawyer is not desirable.

The Program seeks to provide a non-adversarial option to Small Claims Court and to increase public awareness of alternative methods for conflict resolution.

PROGRAM TARGETS

Mediation is aimed at, but not necessarily limited to, cases between parties involved in a continuing relationship. Some typical cases which would be appropriate for mediation include the following:

-Landlord and tenant disputes;
-Customer-contractor disputes;
-Neighbourhood disputes, involving noise, property damage "barking dogs", etc.;
-Disputes between co-workers or employers and employees;
-Roommate disputes over monies owing and division of property;
-Debtors reaching a payment schedule.

The Dispute Resolution Centre in no way attempts to be a substitution for the court and clients are advised of their rights to seek legal counsel and to proceed with court action if they choose.

RATIONALE

This service would be advantageous to both the court and Court Services Branch since it offers a source of referral for cases which might be better dealt with through non-adversarial means. The advantages of mediation are as follows:

1. Quick:

The hearing is scheduled two or three weeks after both parties agree to participate in the mediation.

2. Cheap:

It is less expensive than filing an action in Small Claims Court, ($10.00 per party).

3. Simple:

Mediation is a simple process which is not encumbered by the requirements of a formal court hearing.

4. Informal:

The hearings are relaxed and informal. Parties are typically provided with more time to explore thoroughly the breadth of their dispute.

5. Compliance:

The parties are likely to comply with the results of a hearing when they reach a solution by consent. Research indicates that the people are more motivated to fulfill a personal promise, or consent agreement, than to obey an Order of the Court (71% to 34% indicated in one study).

RECOMMENDATIONS

It has been decided that information regarding the Dispute Resolution Centre will be distributed through a system set up in the Small Claims Registry. This information will be provided at the initial telephone inquiry, included with the information packet given to plaintiffs; included with the information given to defendants; included with the Notice of Trial Date; and suggested as an alternative on the day of trial should the trial be adjourned because of overcrowding on the court docket.

ADDITIONAL INFORMATION

Training of Mediators

Mediators are volunteers in the community who have a background that would be suitable for this type of work. They are given 30 hours of formal training. At the end of the training they are then re-assessed to determine whether or not they can be used by the Centre. They observe two mediations and then assist in two mediations. The participants are again re-assessed and if deemed fit, are allowed to mediate other disputes.

Hours of Operation

The Centre opens at 8:30 in the morning with normal office hours. However, they intend to offer their services in evenings and on Saturdays.

Court Referees

This Centre is in no way like the old Court Referee System. There will be no interference in the court process.

If an action has been commenced and the parties mediate a settlement, the parties may agree that the settlement be filed as a consent judgment.

Settlement

The final agreement takes the form of a written contract. If there is non-compliance then the contract could be introduced as evidence in any subsequent proceeding.

R.W. METZGER
Acting Administrative Judge

RWM/cp

c.c. Chief Judge I.B. Josephson
His Honour Judge Harry White
Margaret Mann, Acting Manager, Court Services
Rod Fisher, Acting Supervisor, Small Claims
Dinah J. Stanley, Program Director, Vic. Disp. Res. Centre ✓
Jerry McHale

APPENDIX H

DISPUTE RESOLUTION CENTRE

AN ALTERNATIVE TO SMALL CLAIM COURT ACTION

The Dispute Resolution Centre provides mediation hearings as an alternative to going to Small Claim Court. Mediation is a voluntary, confidential process during which you and the other party to the dispute meet together with an impartial mediator. The mediator sets ground rules, listens and asks questions to help clarify misunderstandings, keeps the process focused and assists you to come to a solution which is agreeable to both of you.

Mediation is a voluntary, impartial, private, inexpensive and fast alternative to the formal judicial process. A Centre staff member will contact the other party for you and try to persuade him or her to use the Centre's services to work out the problem. A mutually convenient time for a hearing will be arranged within two weeks from the time you both agree to try mediation. The cost is $10.00 per party.

You are entitled to consult legal counsel at any time during the process and/or to proceed with court action if mediation should break down. When an agreement is reached, the mediator will write out all the specific details of the decision. You will both sign the written agreement, indicating your intention to comply with its terms. The final agreement takes the form of a written contract which would be admissible in a court proceeding in the event the contract is not complied with.

The Centre will mediate your case if you both participate voluntarily and if the value of the dispute does not exceed $3,000.00.

FOR FURTHER INFORMATION ask the Court Registry staff for a brochure or call or drop by the Centre.

DRC

An alternative to frustration, anger or legal action.

DISPUTE RESOLUTION CENTRE
#402-535 YATES STREET
VICTORIA, B.C. V8W 2Z6

383-4412

TO THE PLAINTIFF : If you are considering proceeding through the Dispute Resolution Centre, we recommend that you go there before filing in the Court Registry. If you file your Summons first and later settle the matter with the Centre's help, the $25.00 filing fee is not refundable.